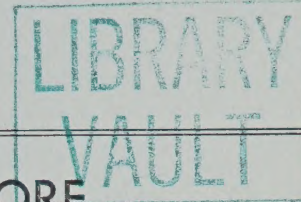
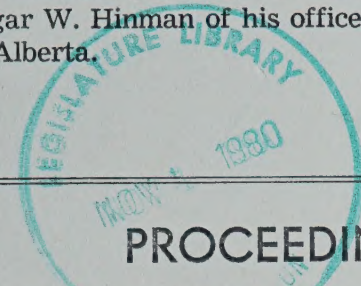




IN THE MATTER OF The Public Inquiries Act, being Chapter 258 of The Revised Statutes of Alberta, 1955, and Amendments thereto; and,

IN THE MATTER OF an Inquiry by a Royal Commission into the matters set out in Order-in-Council 861/67 respecting the use or attempted use by the Honourable Alfred J. Hooke of his office as a member of the Executive Council of Alberta, and the use or attempted use by Edgar W. Hinman of his office as a member of the Executive Council of Alberta.



PROCEEDINGS BEFORE
THE HONOURABLE MR. JUSTICE
W. J. C. KIRBY

C. W. CLEMENT, Esq., Q.C.,
S. A. FRIEDMAN, Esq., Q.C.,
S. H. McCUAIG, Esq., Q.C.
L. MAYNARD, Esq., Q.C.,
W. B. GILL, Esq., Q.C.,

G. A. C. STEER, Esq., Q.C.
D. H. BOWEN, Esq., Q.C.
N. S. CRAWFORD, Esq., and
J. D. HILL, Esq.
G. S. D. Wright, Esq.

Commission Counsel
Departments of Government
E. W. Hinman, Esq.
The Honourable Alfred J. Hooke
G. A. Turcott, Esq.
Mr. Neil Reimer
Dr. C. A. Allard
Liberal Association of Alberta
Progressive Conservative Party of
Alberta
Alberta New Democratic Party

W. ALAN SHORT, ESQ.,
Clerk to the Commission.

VOLUME No. 24.....

DATE October 24th, 1967..
(Pages 2439 - 2572)

Supreme Court Reporters

EDMONTON, ALBERTA

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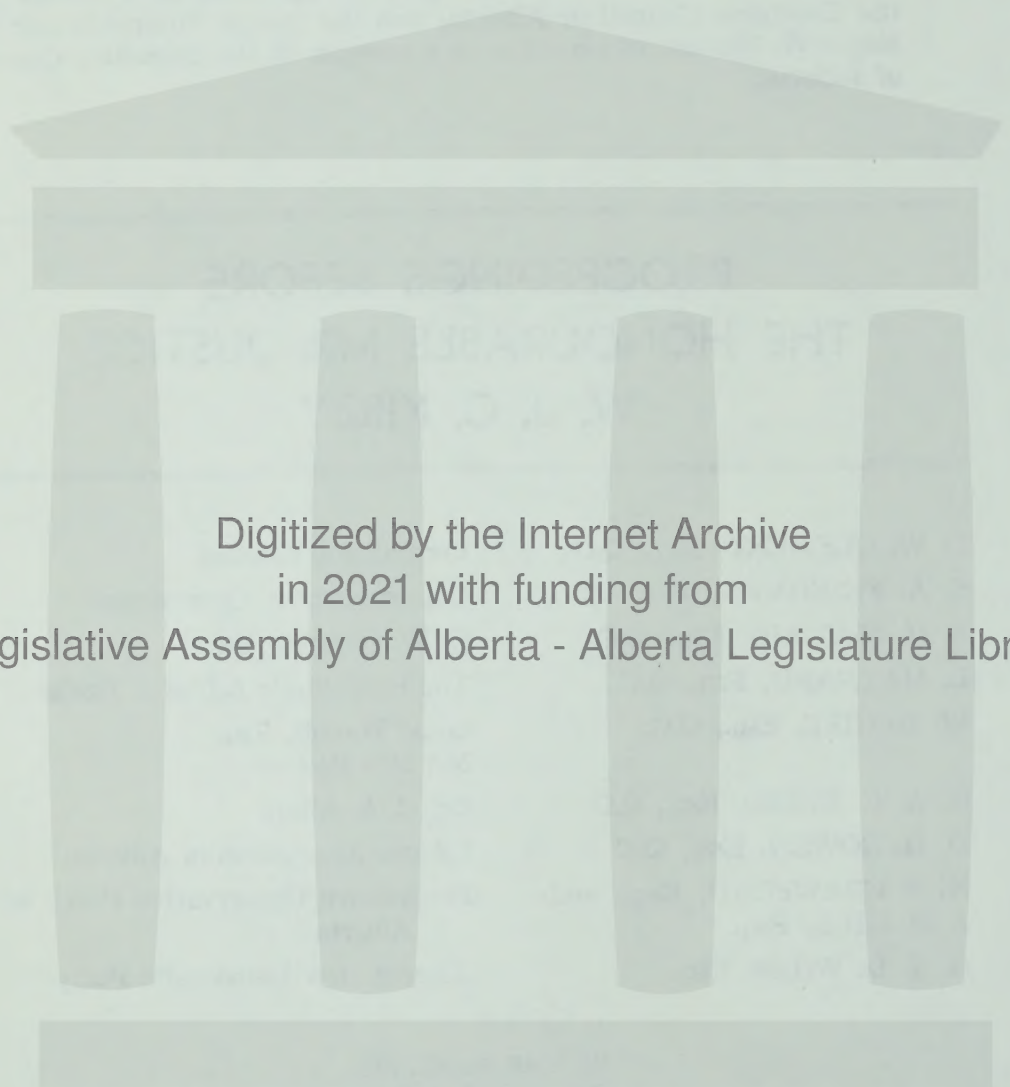
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G.W. Moyer - Clement Ex.

EXHIBITS

PROCEEDINGS before The Honourable
Mr. Justice W. J. G. Kirby, this
24th day of October, A. D. 1967, at
9.00 a.m. V O L U M E 24, at the
Court House, in the City of Edmonton,
Province of Alberta.

October 24th, 1967

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MR. CLEMENT: If it is easier for you to answer
standing it is your right Mr. Moyer but, if it is more
comfortable sitting that is fine.

A It is always more comfortable sitting.

Q MR. CLEMENT: Yes, I find that too. Mr. Moyer,
were you a reeve of the Municipality of Strathcona during
the years 1951 and afterwards?

A I was reeve maybe '51 and '52, I am not just sure, I would
have to check back on that.

Q How long have you been a member of the Municipal Council?

A Thirty-two years.

Q Thirty-two years and that includes the period in which it
was then a County?

A That is right.

Q When did you first become a member of the Council of the

1-P-1

G.W. Moyer - Clement Ex.

PROCEEDINGS before The Honourable
 Mr. Justice W. J. C. Kirby, this
 24th day of October, A. D. 1967, at
 9.00 o'clock in the morning, at the
 Court House, in the City of Edmonton,
 Province of Alberta.

MR. CLEMENT:

I call Mr. Moyer.

GORDON WARD MOYER, sworn, examined by Mr. Clement:

Q Mr. Moyer, where do you make your home? Where do you make
 your home Mr. Moyer?

A Four miles south and eight miles east of Fort Saskatchewan.

THE COMMISSIONER:

Mr. Moyer, you may remain seated.

A Thank you.

MR. CLEMENT:

If it is easier for you to answer
 standing it is quite all right Mr. Moyer but, if it is more
 comfortable sitting that is fine.

A It is always more comfortable sitting.

MR. CLEMENT:

Yes, I find that too. Mr. Moyer,
 were you a reeve of the Municipality of Strathcona during
 the years 1951 and afterwards?

A I was reeve maybe '51 and '52, I am not just sure, I would
 have to check back on that.

Q How long have you been a member of the Municipal Council?

A Thirty-two years.

Q Thirty-two years and that includes the period in which it
 was then a County?

A That is right.

Q When did you first become a member of the Council of the

1-P-2

G. W. Moyer - Clement Ex.

Q (cont.) Municipality?

A March 1936.

Q And you have been on steadily since then?

A That is right.

Q Now, as you know Mr. Moyer one aspect of this Inquiry relates to the development of Campbelltown, now Sherwood Park and you, I understand, represented the Municipality on the Edmonton District Planning Commission for the years in particular from 1951 on through until 1954 when the Municipality withdrew for a period of two years?

A Yes sir.

Q That is correct. Now, in the course of that gradual development of the Campbelltown concept, the matter was dealt with from time to time by the Council of the Municipality was it not?

A Yes.

Q And they also had a special committee which gave consideration to various aspects of it from time to time?

A The committee of the Council, consisting of the whole Council.

Q I see, so this special committee we have heard about is a committee of the whole?

A Right.

Q Now I understand that in addition to the records that Mr. Hawkins was able to produce, you have searched through the Minutes of the Municipality, of the Council and have found additional Minutes which might be relevant and an additional

1-P-3

G. W. Moyer - Clement Ex.

Q (cont.) plan or two?

A Yes sir, I have two plans, a very preliminary plan and the final plan that was approved by the Council.

Q Yes. Let's deal with the preliminary plan Mr. Moyer, does this bear a date or is it dated only by reference to the copy of the Minutes of the Council?

A I think that is all the date that would be here.

Q Yes, and you are also producing then Mr. Moyer a copy of the Minutes of the meeting of the Council of Strathcona of October 6th, 1954 and this plan is annexed as being referred to in the Minutes, is that correct?

A Yes.

Q May I tender this sir as one Exhibit?

THE COMMISSIONER: Exhibit 344.

COPY OF MINUTES OF THE MEETING OF
THE COUNCIL OF STRATHCONA OF
OCTOBER 6th 1954 WITH PLAN ANNEXED
ENTERED AS EXHIBIT 344.

Q MR. CLEMENT: Mr. Moyer, what happened in respect of this Exhibit 344, what took place at the meeting, what led up to the meeting?

A Well roughly there had been considerable talk as to agreement for a townsite between the developer and the Council.

Q And who was the developer?

A Mr. John Campbell.

Q Yes, and then I take it from the evidence that had been going on for a period of time?

A Yes.

1-P-4

G. W. Moyer - Clement Ex.

Q Was this the first plan of the proposed development of Campbelltown that came before Council?

A I wouldn't like to say that sir, there were different plans as I recall.

Q Well now, this plan Exhibit 344 bears this notation "Plan submitted by John H. Campbell for the proposed townsite of Campbelltown situated in the M.D. of Strathcona, Section 27, Township 52 Range 23 west of the 4th." and the further notation is "approved on condition that the final plan will not be approved until an agreement satisfactory to the Municipality has been completed."

Now, what transpired at that meeting then, was a plan brought before the Council for what purpose?

A I suppose the primary purpose was to get the Council feeling and agreement in principle to the establishment of a subdivided area on that quarter section.

Q Perhaps I could refresh your memory Mr. Moyer, in September of 1953 the Edmonton District Planning Commission had approved a project on Section 27 in principle and I believe you were present at that meeting where a secret ballot was held?

A Yes, I was at that meeting.

Q So that approved the project in principle did it not?

A I believe you are right.

Q Yes. Now this then comes before the Council as a definitive proposal for that development approved in principle, is that correct?

1-P-5

G. W. Moyer - Clement Ex.

A I believe maybe that would be right.

Q I know it is a long time ago and I am just trying to assist your memory by reference to evidence that has already been given.

A Well it is a long time ago and all negotiations were preliminary as far as we were concerned up until the final approval.

Q Yes. Sir, the Minute reads as follows

"Mr. John H. Campbell was in attendance to discuss development of the proposed townsite in Section 27. The discussion centred mainly around the question of whether or not a storm sewer system should be installed. Mr. Campbell informed the Council that Mr. Jack Counts engaged by Mr. Campbell to develop the town would build and hard surface the streets and sidewalks but would not install storm sewers. The present lands take care of run off waters by surface drainage. Mr. Lawrence, the District Water Engineer suggested that Mr. Counts could leave open spaces as the town was developed and as storm sewers became necessary there would be no great additional expense in installing them. If it appeared that storm sewers would not be necessary the open spaces could still be developed. Mr. Campbell asked the Council to approve the tentative plan with an agreement to provide that the plan could be revised to provide for storm sewers etcetera where

1-P-6

G. W. Moyer - Clement Ex.

Q (cont.)

"necessary.

The matter was discussed at some length and it was finally moved by G. W. Moyer that the plan submitted by John H. Campbell for the subdivision of Section 27 be approved on the condition that the final plan will not be approved until an agreement satisfactory to the Municipality has been completed."

Mr. Moyer, I presume that agreement would include provisions as to storm sewers and so on?

A Right.

Q And do you produce another plan? Mr. Commissioner, an extract of Minutes of a meeting of Council of Strathcona of May 19th, 1955 in which the relevant portion refers to the plan Mr. Moyer has also produced, may I have the Minute and the accompanying plan marked as an Exhibit?

THE COMMISSIONER: Exhibit 345.

EXTRACT OF MINUTES OF A MEETING OF
THE COUNCIL OF STRATHCONA OF MAY
19th, 1955 WITH PLAN ANNEXED ENTERED
AS EXHIBIT 345.

Q MR. CLEMENT: The Minute reads as follows:

"Mr. John H. Campbell was present to submit revised tentative plan for the proposed townsite in Section 27. These did not differ materially from the plans previously submitted but overcame some of the objections which had been raised by Mr. H.N. Lash Director of the Provincial Planning Advisory Board

1-P-7

G. W. Moyer - Clement Ex.

Q (cont.)

"regarding the previous plans. After Mr. Campbell explained the details of the plan it was moved by A. M. Adamson that the revised tentative plans as submitted by Cam-Del Co. Limited be approved subject to the same terms and stipulations as set out in the agreement with reference to the immediately prior tentative plans which were approved on April 6th, 1954."

Now Mr. Commissioner, that adds to the store of plans that are already in evidence and perhaps adds something to the Inquiry.

I would like to come to another point Mr. Moyer. By an Order-In-Council made on August 16th, 1954 and which is Exhibit 188, the Municipal District of Strathcona was withdrawn as a Member of the Edmonton District Planning Commission, that Order-In-Council was preceded by an Ministerial recommendation which is in evidence as Exhibit 188A, a recommendation by the acting Minister of Municipal Affairs who was then Mr. Lucien Maynard, the recommendation being that in effect, that the Municipal District of Strathcona be withdrawn as a Member of the Commission and upon that recommendation the Order-In-Council was passed?

A Yes.

Q Would you tell the Inquiry sir of any meetings you had particularly with Mr. Maynard which might have led up to that Ministerial recommendation? Did you meet Mr. Maynard?

1-P-8

G. W. Moyer - Clement Ex.

A No I can't recall any meeting with Mr. Maynard. As I recall the incident, our Council Meeting or committee meeting were told that if we made application to the acting Minister our application for withdrawal from the Planning Commission would be approved.

1-M-1

G. W. Moyer - Clement Ex.

Q Who told you that?

A I couldn't tell you now. It was information that we got at the meeting -- whether it was the reeve told us or the secretary -- it was information given to us at the meeting and I couldn't say who gave us the information.

Q Yes.

A But we took it for granted that it was right.

Q Yes. Had the municipal district been happy in its relations with the Edmonton District Planning Commission up to that time, or had there been difficulties?

A Well, frustration, I would say, at times, on the approval of subdivisions.

Q Yes, and what was the attitude of council towards withdrawing?

A Full agreement.

Q This was their wish?

A Yes.

Q And was there anything in particular in your recollection that made them want to withdraw? Was it one or more circumstances?

A I think there were several circumstances, and perhaps each one had something that stood out more in their mind than others.

Q Each one put a different weight on the several circumstances?

A That's right.

Q Is that right? I see. And did the matter of the development of Campbelltown have any influence on any of the members of council so far as you can recall?

1-M-2

G. W. Moyer - Clement Ex.

A I don't think exactly the development of Campbelltown, I don't think entered into the feeling too much. I think it was the attitude of the Director of the Planning Commission at that time more than anything else.

Q And what did you feel was not satisfactory in his attitude?

A Well, if I might go back -- when the Planning Commission was formed we understood it was formed for planning of subdivisions and development for the whole Edmonton area, and we felt that we were being --- . Maybe I better start over. We felt that our wishes were not being complied with as we thought they should be.

Q And this, you felt, was being blocked by the Director?

A Yes.

Q So, is it fair to say, Mr. Moyer, that the events of August, 1954, were the culmination of a number of circumstances that influenced council to wish to withdraw?

A I don't know whether I would want to pin it right down to August. I think it was something that it was a build-up and the opportunity came to withdraw, and I think council thought it was better to do that, bring things to a head.

Q And how did the opportunity come up in August in particular?

A I can't recall. I wasn't reeve at that time. I can't recall the circumstances, how council were informed or who got the information.

Q And you made no attendances on any government official to request that an Order-in-Council be passed enabling the municipality to withdraw from the Planning Commission?

1-M-3

G. W. Moyer - Clement Ex.
- Gill Ex.

A Not that I can recall.

Q Do you know whether any other member of council might have done so?

A No, I have a -- I have a feeling that some member did, and I would say that at that time it would be the reeve that did contact the acting Minister, but I have no authority any more than a vague memory that that could have been what happened.

Q Yes, and you recall no meeting in which any Minister of the Crown attended a council meeting or a meeting of the committee of the whole to persuade council to do this?

A No, we didn't need persuasion.

Q Thank you, sir. Would you answer my friends?

THE COMMISSIONER: Mr. Gill?

MR. GILL EXAMINES WITNESS:

Q Mr. Moyer, you were a member of the Council of the Municipal District of Strathcona in July of 1953?

A Right.

Q Do you recall the Minute of the 6th of July of the Council of Strathcona wherein Mr. John H. Campbell recommended that members of your Council confer with members of the Cabinet?

A I don't remember.

Q If that is in the Minute it would be correct, would it?

A Yes, if it's in our Minutes it would be correct.

Q I am informed that that was in July of 1953. So you were concerned as a council in July of 1953 about Campbelltown, were you?

1-M-4

G. W. Moyer - Gill Ex.

A Yes.

Q And did you know in July of 1953 that Mr. Hooke had an interest in this land?

A I wouldn't want to say just when we knew that it was Mr. Hooke's land that was being taken over.

Q Well, you were on council in 1951, were you not?

A Yes.

Q And Mr. Hooke moved into the area in 1951, did he not?

A Somewhere around there.

Q In November of 1951 you first received notice that Mr. Campbell wanted to develop Section 27 as a town?

A Well, that could be.

Q So you would know from then on that it was Mr. Hooke's land that was involved; is that correct, sir?

A Right.

Q Did you or any members of your council that you know of meet with Mr. Campbell outside of the council room to discuss this matter?

A Well, I never did and I don't know of any council meeting outside.

Q But, you knew in August of 1954 that as a council you had to get the permission or the assistance of the acting Minister of Municipal Affairs to get out of the Edmonton District Planning Commission?

A Yes.

Q And you got Mr. Maynard to do it?

A Well, he was Minister -- acting Minister at that time.

1-M-5

G. W. Moyer - Gill Ex.

Q How did you know that he was the acting Minister of Municipal Affairs?

A I couldn't answer that.

Q Somebody told your council this?

A I expect so.

Q And in fact, a member of your council was attending a meeting of the Edmonton District Planning Commission the same day that you decided to get out of that Commission?

A Well, if the records say that, I will agree to that.

Q Thank you. They do, sir. Have you discussed the matter of this Commission with Mr. Hooke in the last few weeks?

A I haven't seen Mr. Hooke since the election.

Q I see. You know him fairly well?

A Fairly well.

Q Do you know him on a first name basis?

A I think so, the last year or two.

Q And have you discussed the matter of this Commission with Mr. Maynard?

A No.

Q But somebody certainly told your council in August of 1954, if not before, that if you got in touch with the acting Minister of Municipal Affairs you could get out of the Edmonton District Planning Commission?

A Well, there must have been information, to our council to that effect.

Q And you acted on that information?

A Right.

1-M-6

G. W. Moyer - Gill Ex.
- Bowen Ex.

Q And you have no idea where that information came from?

A No.

Q And what position did you have on council at that time?

A Councillor.

Q For what area?

A Division No. 5 at that time, which was in the northern part of the county.

Q Mr. Hooke's land wasn't in Division No. 5?

A No.

Q Thank you.

THE COMMISSIONER: Mr. Bowen?

MR. BOWEN EXAMINES WITNESS:

Q Mr. Moyer, had the municipal council discussed the concept of satellite towns before Mr. Campbell's proposal came to it?

A I doubt very much if they had. Now, this is from memory -- I can't recall any other townsite that -- .

Q In 1951 I suppose the council was very much aware of the industrial development within the county -- or the M.D. -- and had it at that time taken into account that you would need housing for the employees of these plants?

A About that time we had started to think about it.

Q So that at this time the idea of a satellite town within the confines of the county was very much in your minds?

A Well, if it wasn't, it -- you might say it was received on fertile ground.

Q And I suppose at that time the county was aware that the City was casting eyes on its industry or possible industry?

1-M-7

G. W. Moyer - Bowen Ex.

A I wouldn't say so much at that time. Later on, of course, developments showed that they were, but at that time, why, I doubt very much if they were.

Q In 1953 and '54 the council became aware, though, of this possibility, and they were anxious therefore to establish residences as well as the factories within the boundaries of the county?

A That is correct.

Q Did you have, to your memory, any other applications for satellite towns in the county?

A There was another application but it seems to me it was after that, that the other application was brought in, and it was turned down because Campbelltown was already in the planning or building stage.

Q Would this be after 1953 when the matter was approved in principle by the District Planning Commission?

A Definitely.

Q It was after that time?

A Yes.

Q Now, I think you told the learned Commission counsel this morning that the 1953 secret ballot was approval in principle of a satellite town, and it was specifically related to the location of what we now know is Sherwood Park?

A Yes.

Q And it wasn't until 1954 that plans, good plans were presented for consideration?

A Yes.

1-M-8

G. W. Moyer - Bowen Ex.

Q Now, can you recall whether this other application was in that period between 1953 and 1954?

A I couldn't -- I couldn't recall definitely, no.

Q Did the council consider any other location than the -- any other location within the county or the M.D. for this satellite town?

A I don't think we did. I think we -- we took the position that Campbelltown was situated far enough from the City to be a good location for a satellite town; it had good land, it had good drainage, it had gas available, power available, water fairly close -- everything seemed to point that the Campbelltown area was a reasonably good area to have a satellite town in.

Q But really, Mr. Moyer, the only reason that Campbelltown was put where it is today -- or where Sherwood Park is today -- was because Mr. John Campbell said: this is where we want to build?

A I wouldn't say that it was because Mr. John Campbell asked for it; I would say that it was asked for and the time was ripe to establish a town, and from investigation there was no reason why it shouldn't go there.

Q There were other equally as good areas within the county, were there not?

A I wouldn't altogether agree.

Q Was this the best area in your opinion to put a town, the Southwest quarter of Section 27?

A I can't think of any better place.

1-M-9

G. W. Moyer - Bowen Ex.

Q Were other areas considered?

A Not at that time.

Q After you withdrew from the District Planning Commission, the county or the M.D. had more freedom in its planning and in its decisions, did they not?

A I wouldn't say they had any more freedom; I believe we acted with a little more confidence, maybe.

Q The only person after you left the District Planning Commission that had any authority, then, outside of the M.D.'s officials, would be the Provincial Planner, who had to initial your plans?

A Yes.

Q So that in getting out of the Commission the Municipal District got rid of a board made up of conflicting interests, and got one person that they were responsible to. Is this correct?

A Well, I don't think we looked at it that way. That might be the way it was -- you might look at it that way, but I don't think we looked at it that way.

Q Well, I am very interested in how you did look at it, Mr. Moyer, and I suggest this, that you found yourself restricted by being a member of the District Planning Commission, and these restrictions became very onerous after a while.

A Well, I think I would like to say that our director at that time took positions that I at least thought was none of his business, and I told him so.

Q All right. The county or the municipal district didn't like

1-M-10

G. W. Moyer - Bowen Ex.

Q (Cont.) the Planning Commission, for whatever reasons.

A No, I wouldn't say we didn't like the Planning Commission. It was the Director that we definitely didn't like. We went into planning wholeheartedly, and thought it was a fine idea, but when one man started to swing the big stick, why, we backed away.

Q There were differences of opinion with other municipal representatives on that Commission, were there not?

A Well, there always is. It wouldn't be a good commission if there wasn't.

Q There were divisions between the urban municipalities and the rural municipalities in their outlook?

A Well, I don't know -- I think it's a pretty good commission -- as far as the members are concerned, I think they are pretty broad minded.

Q Well, in any event, after you left it was only one man in the Provincial Government that had the say as to whether a subdivision proposed by the municipal district was going to go through or not. This is the situation, isn't it?

A Well, of course, we had our own private planner, and we had engineers to advise us. It wasn't -- we didn't just think something up and ask them to approve. It was, we thought, well planned before we asked for approval.

Q Oh yes, but coming down to my question, sir: after you left the Commission there was only one man's approval you needed, and that was the Provincial Planner?

A Well, there was no change as far as we could see -- there would

1-M-11

G. W. Moyer - Bowen Ex.
- Crawford Ex.

A (Cont.) be no change -- if you want to put it that way -- there would be no change from that or when we were in the Commission, because one man was running it anyway.

Q Thank you, sir.

THE COMMISSIONER: Mr. Crawford?

MR. CRAWFORD EXAMINES WITNESS:

Q Mr. Moyer, who was the man with the big stick again?

A Mr. Gertler.

Q The Director -- Mr. Gertler?

A Right.

Q And he was one of fifteen members of the District Planning Commission?

A He was the Director.

Q He was the Director?

A Yes.

Q But the decisions were taken by the majority vote of the Planning Commission?

A Right.

Q These were recommendations that for matters such as the approval of Campbelltown were recommended on by the Commission and then referred to the Provincial Planner for approval?

A Right.

Q And your view is that by stepping out you just went from then on directly to the Provincial Planning -- to the Provincial Planner, instead of through the Commission?

1-B-1

G. W. Moyer - Crawford Ex.

A Well, that was the way it was handled anyway.

Q And I believe you were told in about August of 1954 that if you asked for the withdrawal of the Municipal District of Strathcona from the Planning Commission that it was all arranged, is that correct?

A Well, that was the information that came to the Council, yes.

Q And who had arranged for it?

A I don't know, I can't find out.

Q You can't find out. Then did you get the impression also that after you were out that if you went, after you were out of the Planning Commission if you went to the Provincial Planner that it was arranged that the subdivision plans would be approved?

A Well, I am not sure, just too sure how our subdivision plans were handled, whether it went direct from our office or whether it was handled through our engineers or through our planner, our private planner.

Q Well, you said you would approach the Provincial Planner with more confidence than you under the system when you were part of the Planning Commission, do you remember using those words?

A Yes.

Q Now, there must have been a reason why you had more confidence in approaching the Provincial Planner; what was the reason?

A Well, I think it was perhaps personality more than anything

1-B-2

G. W. Moyer - Crawford Ex.
- Wright Ex.

A (cont.) else. We had been let down, you might say, on some applications for development and we felt pretty sore about it, and we didn't think, we didn't feel that the man had acted in good faith, I am talking about Mr. Gertler, acted in good faith with the County or with the Municipality at that time, and I suppose we thought that the laws of averages wouldn't give us two men of the same caliber.

Q And who was this other man, the Provincial Planner that you would approach with more confidence, what was his name?

A I don't remember if Mr. Lash was the planner at that time, along about that time Mr. Lash was the planner.

Q Your memory is that it was Mr. Lash then?

A Well, I would say, yes, I wouldn't want to say for definite it was Mr. Lash but it possibly was.

Q Those are all my questions, thank you, Mr. Moyer.

THE COMMISSIONER: Mr. Wright?

MR. WRIGHT EXAMINES THE WITNESS:

Q When did you first meet Mr. Hooke, Mr. Moyer?

A I couldn't recall, I think perhaps the first I saw Mr. Hooke he used to have an orchestra that went to community affairs such as dances and, or anything where -

Q - country music was needed?

A Where music was appreciated, why, he would take his troupe and entertain, I think maybe that is where I first saw Mr. Hooke.

Q Yes, was that before 1951?

A I couldn't say.

1-B-3

G. W. Moyer - Wright Ex.

Q But when did you first meet him to be able to say "Hello."
to him?

A Well, it would be after 1951 I know for sure, but just
when I couldn't say.

Q How did you come to meet him?

A How did I come to meet him? I couldn't recall, I couldn't
recall the meeting, the first meeting. I can recall
meeting and talking to him.

Q Where?

A Oh, perhaps shopping. I remember meeting him at, the first
time I met his wife I remember was in the Hudson Bay, we
were, I was walking through the store with my wife and we
met and he introduced his wife.

Q But you had previously met Mr. Hooke?

A What's that?

Q You had previously met Mr. Hooke?

A I had previously?

Q Yes, before your wife met his wife you had met Mr. Hooke?

A Well, I suppose I had.

Q Yes, did you ever meet him in his office?

A Yes, I would say that I had met Mr. Hooke in his office.

Q When?

A I would say about 1964, '63 or '64, when they -

Q '63 or '53?

A What's that?

Q '63 or -

A '63.

1-B-4

G. W. Moyer - Wright Ex.

Q Ten years after the time we are talking about, more or less?

A Well, it would be the time the Municipal, Provincial Municipal Advisory Board was formed, was the first time I had been in Mr. Hooke's office.

Q Did you ever speak to him about Campbelltown, about the time we are talking?

A Never.

Q You are sure of that, eh?

A Sure of it.

Q Did any councillor to your knowledge ever speak to Mr. Hooke with reference to Campbelltown?

A Not to my knowledge, no.

Q Did you have any contact with the Government in 1954, in or about August, 1954, about the time that the Municipal District withdrew from the Edmonton District Planning Commission?

A I can't recall any negotiations.

Q Yes, you say you can't recall any negotiations; were there some negotiations to your knowledge -

A Well -

Q - that you weren't part of?

A Well, there must have been, someone must have got information that, how to go about withdrawing from the Commission.

Q And your best guess is that that person was Mr. Adamson, the Reeve?

A Well, I would say that he was in a position to do the job.

Q To do what job?

1-B-5

G. W. Moyer - Wright Ex.

A Well, to discuss it with the Acting Minister, the possibility of withdrawal.

Q Yes, why the Acting Minister, why not with Mr. Gerhart, the Minister?

A I don't know.

Q How did you find out that Mr. Gerhart was away from town?

A I don't know that.

Q And will you just glance at the minutes of the meeting of August 13th, 1954 in the Municipal District, Exhibit 212?

A (Orderly hands document to the witness.)

Q And you will see it was held in the morning, wasn't it, at ten thirty?

A What was your question?

Q It was held in the morning, wasn't it, at ten thirty?

A Yes, that is the record, "The Reeve called a special meeting at ten thirty on August 13th ...".

Q You were there?

A Yes.

Q Mr. Adamson presided?

A Right.

Q And perhaps the witness may be shown Exhibit 168. In Exhibit 168, Mr. Moyer, there are the minutes of the meeting of the 13th of August 1954, of the Edmonton District Planning Commission, or rather an Executive Committee thereof; you were present?

A Right.

Q And that was held at ten past two of the same day, wasn't it?

1-B-6

G. W. Moyer - Wright Ex.

A Yes.

Q And a lengthy discussion was had of the plan for Campbelltown? The meeting is in fact entirely concerned with Campbelltown and the plan that had been submitted?

A Yes.

Q And nowhere did you or Mr. Adamson tell that Committee that that very morning you had voted to withdraw from the Municipal District Planning Commission, did you?

A I don't suppose we did.

Q Pardon?

A I don't suppose we did.

Q Well, all that lengthy discussion would be beside the point if the Municipal District withdrew from the Council, the Edmonton District Planning Commission, wouldn't it?

A I couldn't answer that.

Q Why didn't you tell them, Mr. Moyer?

A We had made application, but the Order hadn't been signed yet.

Q You had been assured that it would be?

A I couldn't say that.

Q Wouldn't you think it would have been the decent thing to do-

A I wouldn't say that, I don't think anybody knew that it would be.

Q All right, you didn't know it would be for sure, that's true; but don't you think it would have been the reasonable thing to say that the Municipal District was attempting to withdraw from the Commission so that all this discussion was

1-B-7

G. W. Moyer - Wright Ex.

Q (Cont.) perhaps beside the point?

A Well, I suppose it is another place where hindsight might be better than foresight.

Q Well, what were you ashamed of, Mr. Moyer, why didn't you tell them?

A Who says anyone was ashamed of anything?

MR. CLEMENT: That is just the point I was going to remark, sir.

THE COMMISSIONER: I think that is an implication that is not really warranted, he has not said he was ashamed.

Q MR. WRIGHT: Wouldn't you agree that it was unusual that you would not tell them?

A No.

Q Why not?

A That was our business.

Q Pardon?

A That was our business.

Q And it was also their business to approve this plan and all this lengthy work, these lengthy minutes, the agreements and the discussions would be beside the point if your application was accepted and you had been told it would be?

A Well, the Commission approved.

Q Approved what?

A The Commission approved the plan, the Commission approved the plan.

Q The Commission didn't -

1-B-8

G. W. Moyer - Wright Ex.

A The Planning Commission approved the Campbelltown plan, approved the location.

Q The location, that is a different matter, they had done that a year before, Mr. Moyer, hadn't they?

A In principle.

Q And how was the decision of the meeting of the Municipal District on the 13th of August conveyed to the Government?

A I couldn't tell you that.

Q You didn't take a copy of the Resolution to anyone?

A No.

Q And you don't know who did?

A No.

Q Mr. Adamson didn't while you were with him that day that you can recall, eh?

A Well, he was with me in the afternoon.

Q That's right.

A Yes.

Q And did you have any discussion that day with anyone in the Government?

A I can't recall, I can't recall any.

Q You may have done, do I gather that you may have done and have now forgotten?

A Well, if there is a record says that I did, I would say yes.

Q Yes, if the record says you did you will admit it, I know.

MR. MAYNARD: Mr. Commissioner, the witness has said "I can't recall.". Now!

Q MR. WRIGHT: But I am just trying to clarify

1-B-9

G. W. Moyer - Wright Ex.

Q (Cont.) that, Mr. Moyer?

MR. MAYNARD: Exactly.

Q MR. WRIGHT: Is there something that happened at the time that you can't recall now, is this what you are trying to tell us, and you realize it is most important we know?

A I don't know whether that question is just as clear, I don't know whether I could answer one way or the other, and say something happened; why, it might mean anything.

Q Well, you say you can't recall; is it that you think you maybe did something and you can't recall or that you have no memory of anything happening at all?

A No, I don't remember of, well, I think you better make your question a little more clear before I try to answer.

Q Did you ever have a phone call from anyone in the Government-

A No.

Q - about this time?

A No.

Q But you cannot recall going down to any office or department about this time?

A No.

Q And you cannot recall Mr. Adamson doing so?

A No.

Q But is it possible that you or Mr. Adamson did at that time?

MR. CLEMENT: At which time are we speaking of?

Q MR. WRIGHT: August 13th 1964 or thereabouts?

A Well, it would be possible.

1-B-10

G. W. Moyer - Wright Ex.

Q Of course, anything is possible practically of that nature, but -

A Yes.

Q But may that have happened in fact?

A Well, I wouldn't agree that it may have happened, it could have happened.

Q You were frustrated you say, the Council was frustrated by the action of the Edmonton District Planning Commission and in particular Mr. Gertler; about what?

A The interference in developments that intimated that they would like to settle in Strathcona primarily.

Q Can you give one example other than Campbelltown at this time?

A Well, one that stood out, and I think one that perhaps that I had the most dealing, the most disagreement with Mr. Gertler over was a proposed development of a clay deposit on the Blackmud Creek. Now, these people asked for a development permit and, of course, our Council referred it to the District Planning Commission, and everything under the sun I take it was done to discourage the people from going in.

Q When was this, Mr. Moyer?

A Well, it was before we withdrew.

Q But what brought it to a head was Campbelltown?

A No.

Q Was it not? You swear that it was not Campbelltown that was the moving matter on the 13th of August, 1954?

1-B-11

G. W. Moyer - Wright Ex.

A No.

Q What was?

A The stream of events, I think, just got the Council in the mood that they wanted to get away from.

Q And what triggered it was the information from the Government that if your application went in that it would be processed?

A If we were not being used fair that we should get out.

Q Did you have any meeting with any member of the Executive Council, did the Council itself have any meeting at which any member of the Executive Council was present about this time or before this time?

A No.

Q The Minutes of the 6th of July, 1963 record that:

"It was suggested that Council would be wise ..."
and this is a meeting with Mr. Campbell,

" ... it was suggested that Council would be wise to confer with members of the Provincial Cabinet in order to obtain some assurance that the townsite ..."
and that is Campbelltown.

" ... would remain within the limits of the Municipality, the Municipal District. The Secretary was instructed to arrange such a meeting through The Honourable C.E. Gerhart."

Can you remember that topic or that meeting for that matter?

A No.

1-B-12

G. W. Moyer - Wright Ex.

Q I mean the Council meeting?

A I don't remember the meeting.

2-P-1

G. W. Moyer - Wright Ex.

Q Can you remember any meeting with members of the Executive Council with regard to Campbelltown?

A No, no, I can remember being concerned about --

Q Do you know whether the Secretary of the Municipal District carried out his instructions then?

A I don't know.

Q Had you ever thought of withdrawing before?

A Well, it was something that had to sort of grow.

Q Yes, but there had never been any serious proposal to withdraw before the 13th of August, 1954?

A Oh yes, we thought seriously.

Q We, who is we?

A The Council.

Q You are sure of that, eh?

A I am sure.

Q Mr. Adamson would be able to corroborate your evidence on that, you think?

A I spent an hour with Mr. Adamson yesterday to try and get some of these questions that you are asking now or to get him to air his thoughts on it and he couldn't remember.

Q When you were speaking with him yesterday, did he say that he had been contacted then?

A No.

Q You said that this was the best site but, in point of fact, there were many sites superior in many ways weren't there Mr. Moyer? Let me just remind you, for example a site close by the river would have great advantages from the point of

2-P-2

G. W. Moyer - Wright Ex.

Q (cont.) view of availability of water and availability of an outlet for sewage? Wouldn't it?

A No.

Q You say not?

A We couldn't take water out of the river. We couldn't dump sewerage in the river.

Q Well, when you treat it you dump it in the river? Don't you?

A With agreement with the City.

Q The City is not concerned?

A Well, they treat our sewerage at this point now.

Q Yes, that is right and it has to go through a very long pipe, doesn't it?

A Right.

Q But Hendayville, do you remember Hendayville?

A Yes.

Q That was a superior site from many points of view, wasn't it?

A No.

Q From the point of view of availability of water it was, wasn't it?

A No, it was further away.

Q Further away from where?

A Further away from the City.

Q City supply, yes, but if they wished to treat their own water it was handy was it not?

2-P-3

G. W. Moyer - Wright Ex.

A We didn't give that any consideration at all, treating water down from the City.

Q At any rate, in supposing it was the best site you, at variance with all the planners, with the possible exception of Mr. Holloway, were you not?

A No.

Q All right, who was in favour of the project then?

A I can't remember anyone suggesting any other site.

Q Yes because Mr. Campbell suggested only this site?

A I wouldn't say it was because he did, he came in at the right time.

Q Yes, no one did suggest any other site?

A That's right.

Q But will you answer my question whether any planner was in favour of Sherwood Park, Sherwood Park's location?

A Well, our own planner was in favour, there is no doubt about that.

Q The one employed by you, who was that?

A Dan Makale.

Q When he was on the Edmonton District Planning Commission he wasn't in favour of it, was he, when he was a member of the staff?

A I couldn't say.

Q And he was not employed by you until after a decision had been made to locate Campbelltown there?

A That is right.

Q So you are unable to give us an example in point of fact?

2-P-4

G. W. Moyer - Wright Ex.
- Maynard Ex.

A Example of what?

Q Of a planner who was in favour of Sherwood Park at that place?

A Well, it passed the Planning Commission, so, someone was --

Q I am talking about professional planners?

A Well I couldn't say what they thought.

Q Nevertheless, you were of the opinion it was the best site?

A Yes.

Q Did you speak with Mr. Holloway then prior to the meeting of the 13th of August, 1954?

A Well, Mr. Holloway was either on the Commission or connected with the Commission. Mr. Holloway was first Chairman of the Commission.

Q Yes, but did he convey any intimation to you with regard to the withdrawal from the Edmonton District Planning Commission being acceptable?

A Not to me, no.

Q Thank you.

THE COMMISSIONER: Mr. Maynard?

MR. MAYNARD EXAMINES THE WITNESS:

Q Just one further question Mr. Moyer, when you referred to Mr. Gertler waving a big stick, or swinging a big stick, was the Municipal District of Strathcona concerned in the years '53 - '54 about the attempt by the City of Edmonton to annex the industrial area?

A Well, we were thinking about it.

Q Were you concerned about the City of Edmonton thinking about

2-P-5

G. W. Moyer - Maynard Ex.

J. Superstein - Clement Ex.

Q (cont.) it also?

A Well that is right, we were.

Q And were you endeavouring at that time to retain the industrial area in the Municipal District?

A Say that again?

Q Were you thinking at that time and making attempts at that time to plan to retain the area, the industrial area in the Municipal District?

A Oh definitely.

Q And what was Mr. Gertler's attitude on the industrial area sites?

A I think he agreed that the industrial area was in a proper place in relation to the City but my thoughts were that he was in favour of the City annexing the industrial area.

Q Fine, thank you.

THE COMMISSIONER: Mr. Clement?

MR. CLEMENT: No thank you sir.

MR. G.A.C. STEER: No thank you, sir.

THE COMMISSIONER: Thank you Mr. Moyer.

(Witness stands down.)

MR CLEMENT: I call Mr. Superstein.

JACOB SUPERSTEIN, sworn, examined by Mr. Clement:

Q Mr. Commissioner, I have called Mr. Superstein at this stage because of reference made to him in previous testimony in connection with the purchase of the Northwestern Utilities Building by a group whose interests subsequently became incorporated in Mayfair Leaseholds.

2-P-6

J. Superstein - Clement Ex.

Q (cont.) I will be calling Mr. Superstein in relation to the Inquiry into Mr. Hinman, I observe that Mr. Hinman's counsel Mr. McCuaig is not here and so that the cross-examination of Mr. Superstein I suggest should be confined to the matters which will be raised in chief on my examination of him.

Mr. Superstein you were here on Thursday when Mr. Miles was giving testimony and inquiry was being made into the acquisition by a group of interests of the Northwestern Utilities Building on 104th Street in 1959?

A I was here.

Q Yes, and during the course of Mr. Miles testimony some reference was made to your participation and the profit you had made out of it?

A Yes.

Q And in particular a statement was referred to, a statement by the North West Trust Company Limited addressed to yourself giving us particulars of contributions to the venture and monies received back in the way of profit?

A That is correct.

Q And I understand that you had then no objection and now have no objection to these matters being inquired into?

A None whatsoever.

Q In that event sir, -- I should say Mr. Commissioner that Mr. George Steer is representing Mr. Superstein here. You have no objection? I will tender the document, the statement I have referred to which was mentioned during the

2-P-7

J. Superstein - Clement Ex.

Q (cont.) course of testimony on Thursday.

THE COMMISSIONER: Exhibit 346.

STATEMENT FROM NORTH WEST TRUST
COMPANY LIMITED TO J. SUPERSTEIN
ENTERED AS EXHIBIT 346.

Q MR. CLEMENT: Now Mr. Superstein, this venture,
the purchase of the Northwestern Utilities Building was one
in which you were associated with Dr. Allard?

A Correct.

Q How did this come about? How did you become interested with
Dr. Allard in the Northwestern Utilities Building?

A At that time I was a Director of North West Trust Company.

Q Yes?

A And my family owned some land adjacent to the Northwestern
Utilities Building.

Q That would be to the north, would it?

A Yes, going up to 2nd Avenue and whether Dr. Allard called me
or whether I called Dr. Allard I don't remember and, we
discussed the matter.

Q Well yes, but Mr. Superstein, this discussion didn't arise
out of the air, was it known to you at this time that the
Northwest Utilities Building was for sale?

A It was common knowledge, yes.

Q It was common knowledge, very well, proceed then?

A I then discussed it with Dr. Allard and we decided it if
could be bought at the right price we would buy it together.

Q Yes, so what did you do about that?

A Well, we bought the building.

2-P-8

J. Superstein - Clement Ex.

Q Well, there had been put in evidence an offer, a written offer that was made by North West Trust Company Limited signed by Mr. Miles and directed to Northwestern Utilities. Did you concur in that offer?

A Yes, I agreed.

Q And how was that -- how did that come about, how did you come to agree to that offer, was there a meeting between you and Dr. Allard?

A A meeting of the minds, yes.

Q That is, over the telephone or personally or what?

A Well, that is hard to say at this time, this is quite a long time ago and I don't remember.

Q Yes, and was there any other people interested in this venture besides yourself and Dr. Allard?

A Not at that time, no.

Q Well, let's take it chronologically and speaking of the time leading up to the purchase of the Northwestern Utilities?

A Just me and Dr. Allard.

Q Yes, Mr. Miles had something to do with it as secretary of North West Trust Company, did he?

A Yes.

Q Very well, so the decision was made and the offer was made?

A That is correct.

Q And you became aware that the offer made by North West Trust Company had been refused?

A Well, we finally wound up buying it from another party as it turned out, I think it was the Giannone group.

2-P-9

J. Superstein - Clement Ex.

Q That is the way it turned out?

A M-hm.

Q But could you tell me what happened so far as your recollection goes between the time Mr. Miles was authorized to make the offer to Northwestern Utilities and the time in which you concluded the deal with the Giannone group?

A To the best of my memory, the building had already been committed to another party, the Giannone group and we found ourselves buying it from the Giannone group.

Q Well that is what I am asking you, how did you find yourselves to be buying it, was there some negotiations with the Giannone group?

A Not by me, by the North West Trust Company.

Q I see. The end result of that was that the price would be a little higher than you had originally contemplated?

A Approximately around \$20,000.00.

Q Yes. Did you concur in a decision to buy from the Giannone group at the higher price?

A Yes we did.

Q Now then, up to this stage your decision to buy from the Giannone group, was there still only Dr. Allard and yourself involved in these decisions?

A That is correct.

Q There is no other interests you knew of?

A I knew of no other interests. I negotiated with Dr. Allard only.

Q And what interest in the venture were you taking, that is,

2-P-10

J. Superstein - Clement Ex.

Q (cont.) a third, a half, three quarters, what?

A I took a half.

Q You took a half and, the remaining half?

A Dr. Allard.

Q Or amongst his companies as the case might be, I suppose?

A I didn't know at that time.

Q So then you bought from the Giannone group, did you have anything to do with the leasing of the building, the North-western Utilities Building to the Crown?

A No.

Q You had nothing to do with that?

A No.

Q Did it come before you that you could lease the building to the Crown?

A No.

Q You mean it was done on Mr. Allard's, Dr. Allard's decision alone without reference to you?

A Pretty well yes, by the North West Trust Company.

Q Well yes, that was the company which was acting as trustee for the interests and doing the dealing about the building, that is quite true?

A That is right.

Q But you would be a beneficial owner of half of the project?

A That is right.

Q You left the matter of leasing the building entirely to North West Trust?

A Yes.

2-P-11

J. Superstein - Clement Ex.

Q And you weren't consulted as to the terms of the lease?
Did anybody ask you, do you agree to rent this building to the Government?

A Well I don't remember, there were some discussions going on, yes.

Q You don't have a recollection now?

A Not exactly, no.

Q But you knew it was leased, of course?

A After it was leased, yes.

Q Very well then Mr. Superstein, the building was sold within a short period of time?

A Yes.

Q The end of April, beginning of May, 1959 to be exact. What do you know about the circumstances leading up to the sale to Mr. Peacock and the interests he represented?

A I know nothing of Mr. Peacock.

Q Well what do you know about the sale at \$550,000.00?

A Well I remember Dr. Allard phoning me and asking me to meet a Mr. Tankoos, Tankoos and Young Incorporation at the Macdonald Hotel.

Q Yes?

A That is the best of my memory and I met him there for a very short time, maybe half an hour and there was some discussion going on about selling the building and certain prices were mentioned and to the best of my memory there was no deal consummated at that time and I think Mr. Tankoos left and phoned back and forth to Dr. Allard. I have no knowledge

2-P-12

J. Superstein - Clement Ex.

A (cont.) of those phone calls until it was finally arrived at a price of \$550,000.00 basis on which we both agreed that we would sell it at, that price.

Q Yes, and so the deal was made?

A The deal was finally made.

Q Now then Mr. Superstein I wonder if you would give us some explanation of this statement. What is this supposed to be, this Exhibit 346. What is that supposed to be?

A This is a statement of North West Trust Company and it says "Mr. J. Superstein, Edmonton Produce --"

Q Well Mr. Superstein, I think all counsel have read it at least once. I am just asking you what it is supposed to be?

A It is a statement of my affairs in regards to that building.

Q And what does it show there, does it show how much you put up?

A It shows how much I invested and how much I received.

Q Yes?

A And I made \$82,500.00 profit.

Q Yes. Now, take those figures in two pieces if you will Mr. Superstein, there is \$80,000.00 and two thousand five hundred dollars. I think they are shown separately on the statement are they not?

A Yes.

Q May 4th, 1959 to Edmonton Produce Company \$80,000.00 and, Edmonton Produce Company was one of the companies that you were operating at that time?

A Yes, I owned that Edmonton Produce.

2-P-13

J. Superstein - Clement Ex.

Q And then on the date of May 29th, 1959 there is a further payment shown of \$2,500.00 to you. Now, would you explain what each of those items are, what is the \$80,000.00 for?

A Well if I may say this, I have never seen this before since yesterday. However --

Q Oh well, it is addressed to you, did it get lost in the mail?

A -- I will hope to assist you the best I know how. I received \$82,500.00 in total out of that building.

Q Yes, why is it shown in two different sums?

A Well there was -- I received \$80,000.00 in one payment and there was a \$10,000.00 held back for other costs including the North West Trust charges.

Q Yes, there is an item there which was dealt with by Mr. Miles showing a payment to North West Trust Company of \$3,543.90?

A I disagreed with that charge.

Q Yes?

A And I discussed this with Mr. Miles, if I remember correctly and Dr. Allard and I said that was too high for the services which they had in this building and we discussed it for a while and I settled that I would pay around approximately \$500.00 for my share of their services to North West Trust Company.

Q Yes, well then do you mean that the \$2,500.00 was a balancing entry to pay you?

A That is right.

Q Out, on the basis of a smaller charge by North West Trust Company?

2-P-14

J. Superstein - Clement Ex.
- Wright Ex.

A That is correct.

Q I see. Mr. Superstein, at any stage in this transaction did you have any communication or any dealing whatsoever with Mr. Hooke?

A No sir.

Q Or any Cabinet Minister?

A No sir.

Q Of the Government of Alberta?

A No sir.

Q Any official of the Provincial Government?

A No sir.

Q Out of these monies or out of any other monies did you make any payment to Mr. Hooke or any Cabinet Minister?

A No sir.

Q Or to any official of the Government of Alberta?

A No sir.

Q Or any payment on behalf of any of those?

A No sir.

Q Would you answer my friends please?

THE COMMISSIONER: Mr. Gill?

MR. GILL: Mr. Commissioner, my friend Mr.

Wright has to be in Ottawa this afternoon, he is engaged before the Supreme Court there and I wonder if he might go first, if we can alternate our positions?

THE COMMISSIONER: Yes, proceed Mr. Wright.

MR. WRIGHT EXAMINES THE WITNESS:

2-P-15

J. Superstein - Wright Ex.

Q Mr. Superstein, how long had you been a member of the North West Trust Company by the time that this deal in 1959?

A A member, do you mean a Director?

Q Yes. Well, you were a shareholder too, were you not?

2-M-1

J. Superstein - Wright Ex.

A Yes, I became a Director, if my memory is correct, sometime in 1959.

Q Sometime in 1959?

A Yes.

Q And not in the previous year when it was formed?

A No, I don't think so.

Q Yes. Did you not have discussions with Dr. Allard, then, about the time that the North West Trust Company was registered as a trust company?

A I don't know.

Q When --- how long have you been associated with Dr. Allard?

A Sometime in 1959.

Q That was your first co-venture with Dr. Allard, the North West Trust Company?

A Yes.

Q But you may have had -- but obviously before you actually joined the company you had discussions with him?

A I have already answered that question.

Q But you can't remember when that was?

A I have already answered that question.

Q Well, if you answered it you didn't answer it clearly enough for me, Mr. Superstein. Perhaps you would answer it again.

A That's the best way I can answer.

Q Which was -- ?

A 1959.

Q Yes. You have no memory of discussing with Dr. Allard before 1959, about anything?

2-M-2

J. Superstein - Wright Ex.

A I have already answered that.

Q And the answer is no?

A To the best of my memory, 1959.

Q Are you aware then of the --- did you become aware when -- after you joined the company, of the circumstances of the licensing of the North Western Trust Company to do business?

A You are touching a completely foreign thing. I know nothing about it.

Q Was the company able to take deposits, for example, when you joined it?

A I have already answered, you are touching on a foreign field, and I know nothing about it.

Q Yes -- you haven't answered that particular question, Mr. Superstein. What was the state of the company, then, when you joined it? Was it doing business with the public, taking deposits and so on?

A I assume they did, yes.

Q You assume? Didn't you go there?

A Only to board meetings once in a while, when I became a Director in '59.

MR. G. H. STEER: Mr. Commissioner, may I intervene?

This witness was called here to meet implications that were cast upon his character by questions from my learned friend Mr. Wright the other day. If he is to be asked about his association with North West Trust Company it would be only fair, in my respectful submission, that he have an opportunity to check the records of the company, and his own

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J. Superstein - Wright Ex.

MR. G. H. STEER: (Cont.) records, and then he would be able to answer these questions. He was not brought here to answer questions such as are being put to him now.

A Mr. Commissioner, I wasn't brought here: I asked to be put on this witness stand today.

MR. G. H. STEER: My suggestion, sir, is that if my learned friend wants to cross-examine Mr. Superstein along this line, he should have advance notice so as to be able to check his records.

THE COMMISSIONER: Yes; well, you wanted to pursue Mr. Superstein's previous relationship to the North West -- and if you wish to do that, I think perhaps we will probably have to arrange for him to be recalled, Mr. Wright.

MR. WRIGHT: My Lord, as I understand it, this is the only time that Mr. Superstein will be here before we finish the part of the inquiry which is allotted to Mr. Hooke's affairs.

MR. CLEMENT: Mr. Commissioner, there is also, again, the question of relevancy, as to whether an inquiry as to what Mr. Superstein knows about the corporate business of North West Trust is relevant to the purposes of this inquiry. I am not able to see it myself at the moment.

THE COMMISSIONER: Oh, I think it's relevant all right. I don't think there is anything improper in Mr. Wright's line of questioning, except that it involves knowledge --- familiarity with records of the company which probably Mr. Superstein may never have looked at or looked at for some

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J. Superstein - Wright Ex.

THE COMMISSIONER: (Cont.) time, and I think he is certainly entitled to refresh his memory if he wishes to do so.

MR. WRIGHT: Yes. Well, do I take it, then, that this witness will be recalled on the subject of the North West Trust Company at large, and, in fact, of Mr. Hooke, and Mr. Hooke's various -- .

THE COMMISSIONER: I think any witness that has any knowledge of this is certainly eligible to be recalled, and if you want Mr. Superstein recalled in regard to other matters in connection with North West Trust, certainly. I would think now perhaps it might be desirable to confine yourself to his statement, and if you wish Mr. Superstein called in connection with the -- this other matter of North West Trust -- provided it can be done within the next few days --- I mean, we've got to reach some form of finality about this.

MR. WRIGHT: Yes, I entirely agree.

MR. G.A.C.STEER: If I might -- .

THE COMMISSIONER: Mr. Steer?

MR. G.A.C.STEER: With respect to this subject of North West Trust, it seems fully apparent from the previous evidence, that the question of deposit, the question of the 25% or \$50,000.00, were all dealt with by witnesses who have already been called. Now, it has entirely slipped my memory as to when Mr. Superstein became a shareholder of North West Trust, and when he became a Director thereof; and I think in Mr. Wright's cross-examination he did not refresh

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J. Superstein - Wright Ex.

MR. G.A.C.STEER: (Cont.) Mr. Superstein's memory on this point, and perhaps, once we know that, and perhaps once we establish whether he in fact had any dealings in the subjects Mr. Wright wants to ask him about -- .

THE COMMISSIONER: That might -- Mr. Wright, would you direct Mr. Superstein's attention to the record. We have the company's records here -- indicate to him the record and let him see when he became Director and see if we can find out whether he does know. If he wasn't a Director at any relevant time, then, of course, he doesn't know anything about it.

MR. G.A.C.STEER: And, of course, even if he was a Director and still didn't know anything about it, I submit, Mr. Commissioner -- .

THE COMMISSIONER: Well, if he doesn't know anything about it, that answers the question.

MR. G.A.C.STEER: -- there is no point in recalling him.

THE COMMISSIONER: Let's find out whether he does or whether he doesn't. Perhaps, Mr. Wright, you would direct his attention to the company records.

MR. WRIGHT: Yes. Mr. Superstein, the annual report for the year ending the 31st of December, 1958, does not show you as a Director or as shareholder, I believe -- .

MR. GILL: It shows him as a shareholder.

Q MR. WRIGHT: It shows him as a shareholder, does it? Yes -- it shows you -- it does not show you as a

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J. Superstein - Wright Ex.

Q MR. WRIGHT: (Cont.) Director, but it shows you as a shareholder, and it shows you as holding five thousand shares. I'm just showing you Exhibit -- .

MR. MAYNARD: Exhibit number -- ?

MR. GILL: 253.

MR. WRIGHT: 253?

MR. GILL: 253.

THE COMMISSIONER: Carry on, Mr. Wright.

Q MR. WRIGHT: So presumably you are mistaken when you say that you didn't get your shares until 1959.

A I didn't say that. I said I wasn't a Director until 1959.

Q Pardon?

A I didn't say that, Mr. Wright --- .

Q I asked you when you joined -- Mr. Superstein, this statement --- .

A I wish you wouldn't put words in my mouth. I just said I was not a Director until 1959.

Q I asked you when you joined the company, when you became a member of the company, and you said in 1959. We won't argue; it's in the record. All right, then, when did you become a member of the company?

A You have the record there. I bought some shares in '58 and I became a Director, to the best of my memory, in '59.

Q Yes, all right. Prior to buying the shares, whom did you talk to? Did you talk to Dr. Allard?

A Yes.

Q So you must have talked to him in 1958 then?

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J. Superstein - Wright Ex.

A I talked to him, and there was a group of us talked about this situation.

Q Yes, and who was the group?

A Other members -- I don't remember.

MR. G.H.STEER: Mr. Commissioner, you have ruled that this is -- .

THE COMMISSIONER: Yes -- if you want to pursue this, then, I think we will have to recall Mr. Superstein. You would like to have an opportunity of him looking over the company records in the meantime, Mr. Steer?

MR. G.H.STEER: If it is relevant.

THE COMMISSIONER: Well, in this inquiry, Mr. Steer, we never know what is relevant until --- .

MR. G.H.STEER: Everything goes?

THE COMMISSIONER: We go through an awful lot of examination -- .

MR. WRIGHT: Yes -- well, that's fine.

MR. G.H.STEER: I certainly wish, under those circumstances, Mr. Commissioner, to have an opportunity of going over with Mr. Superstein what his connection with this company was.

THE COMMISSIONER: Well, I think you are certainly entitled -- .

MR. G.H.STEER: I see -- I cannot see the direction in which my friend is leading, but I will try to find out.

THE COMMISSIONER: You are entitled to be briefed and

2-M-8

J. Superstein - Wright Ex.

THE COMMISSIONER: (Cont.) discuss it with your client, so, Mr.

Wright, will you confine yourself, then, to the statement?

MR. WRIGHT: Yes, fine, my Lord.

THE COMMISSIONER: To question him -- and if you wish

Mr. Superstein recalled, then he will be recalled on this other aspect.

Q MR. WRIGHT: Now, as a selling point, Mr. Superstein, you will agree that the government lease for five years was the single most valuable asset of the building?

A Yes.

Q And, so, in the normal way of doing business the fact that this important lease had been entered into without the direction or even really knowledge of the half shareholder, is unusual, is it not?

A What do you mean by no knowledge?

Q Well, you said that you knew about the lease after it had been got, and there was some discussion before it was got, but you didn't really know about the lease until it had been signed, sealed and delivered. Would that be fair?

A I think the usual procedure took place by North West Trust Company, offering it to the government.

Q Yes?

A I assume the same as other trust companies would do.

Q And what negotiations did Dr. Allard have with the government?

A None.

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J. Superstein - Wright Ex.

Q None himself?

A No.

Q Did you not see any -- Mr. Hooke, for example, about that time?

A No.

Q Did Dr. Allard, to your knowledge?

A No.

MR. G.H.STEER: To your knowledge. The question was: did he, to your knowledge?

A Yes, and I answered that question.

Q MR. WRIGHT: So you are telling us that the lease was obtained from the government in the usual way, merely by North West Trust Company offering the building to the government. Is that your understanding of the situation?

A Normal procedure, yes.

Q H-m?

A Normal procedure.

Q That is normal procedure, that's right, but this lease -- are you aware of any discussions that occurred between anyone who was acting on behalf of the owner, or was one of the owners of the building, with the government?

A Well, I have answered that once, but I will answer it again: no.

Q Were you a member of Doral Developments Ltd.?

MR. CLEMENT: Are we embarking on another -- ?

MR. WRIGHT: It is another company, but the same

2-M-10

J. Superstein - Wright Ex.

MR. WRIGHT: (Cont.) topic, my Lord.

MR. CLEMENT: I thought -- . Is it related to this account?

MR. WRIGHT: That's what I'm going to find out, Mr. Clement. Were you a member of that company?

A I am in the process of finding my files, and I will be able to answer that at a later date, I hope.

Q Anyway, you know about the company?

A I know about the company, yes.

Q And in Exhibit 245 we do see that in 1959 you were a member -- .

THE COMMISSIONER: Could I see Exhibit 346? Mr. Wright, is this relating to this Exhibit 346?

MR. WRIGHT: 346?

THE COMMISSIONER: The statement.

MR. WRIGHT: I am just -- .

THE COMMISSIONER: I think we should confine our examination to the statement, and then we will call Mr. Superstein on another day.

MR. WRIGHT: Yes, my Lord, yes, we are confining it not merely to the statement, but to the building and the circumstances and the leasing of it, my Lord.

THE COMMISSIONER: Well, we have already ruled that the matter of the leasing of it and so on --- the acquisition of the building certainly, and the leasing of it to the government, I understand that Mr. Steer has not discussed this matter with his client, and doesn't -- is not

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J. Superstein - Wright Ex.

THE COMMISSIONER: (Cont.) prepared to advise him. I would like to see you confine this particularly directly to the statement, and then we will recall Mr. Superstein on any other matters.

MR. WRIGHT: I understood my learned friend to be saying he was not aware of -- he had not discussed with his client the total picture of the North West Trust Company, but I understood that Mr. Superstein's sole purpose here this morning was to discuss his role in the acquisition of the Northwestern Utilities Building.

MR. G.H.STEER: That's not quite the case, my Lord.

THE COMMISSIONER: My understanding was that it was a suggestion made last week that Mr. Superstein had improperly paid out some of these monies and he was here to deal with that statement. Is that correct? That was my understanding at the beginning of -- .

MR. G.H.STEER: The innuendo was that some of this profit that Superstein made on this transaction went improperly to the government, and he asked himself to be called on that question. If he is to be called on any other aspect of this inquiry, my respectful submission is that he should have notice of what he is to be questioned on, and have an opportunity to prepare himself.

THE COMMISSIONER: Now, have any counsel any submission to make on that point. I think we should get ourselves clear so we can proceed.

MR. BOWEN: My Lord, if I may. We, in this

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J. Superstein - Wright Ex.

MR. BOWEN: (Cont.) case, this particular facet that we are dealing with is the sale of the Northwestern Utilities Building to Dr. Allard and his associates, and I think that if we are going to be restricted on this witness, that he would be given preferential treatment over other witnesses. We so far in this inquiry, sir, have not had this problem. The witnesses have come, they have endeavoured to answer the questions; if they find that they need the records then those records have been provided later, and I take grave objection to this witness being placed in a particular and special position, sir.

THE COMMISSIONER:

Mr. Crawford?

MR. CRAWFORD:

I would adopt the remarks of Mr.

Bowen, Mr. Commissioner.

THE COMMISSIONER:

Mr. Gill?

MR. GILL:

I adopt those remarks and would

add to them that before this Commission there is Exhibit 245 showing that Mr. Superstein, Dr. Allard, and A. J. Hooke at one time were co-shareholders, if not co-directors, of Doral Developments, in June of 1959, which is a date that is rather significant in these proceedings, and in the licensing of that company.

MR. G.A.C. STEER:

In Doral Developments?

MR. GILL:

In Doral Developments -- Mr. Alfred

J. Hooke was a shareholder; Mr. Jake Superstein was a shareholder; Dr. Charles Allard was a shareholder, and I adopt the remarks of my learned friend Mr. Bowen that I

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J. Superstein - Wright Ex.

MR. GILL: (Cont.) cannot see, with great respect, why this particular witness, merely on the urging of counsel that he is not prepared --- I deem all counsel to be prepared in this matter -- should be restricted in one particular facet. This thing has many tentacles: you take one off and two more appear.

THE COMMISSIONER: Quite true. Mr. Steer Jr.?

MR. G.A.C.STEER: If I may, sir: a statement has been made to you that Mr. Hooke, Mr. Prodor, Dr. Allard, and the witness were all shareholders of Doral Developments. Now sir, if we take the trouble to look at this we will see that Alfred J. Hooke was a shareholder with fifty shares, and the date of registration of the transfer of those shares was November 2nd, 1959, to Charles A. Allard. Then, sir, we have Jacob Superstein, Edmonton Produce, getting one share, and the date is not given, but on November 13th above, it is shown that one share came from Mayfair Leaseholds to Mr. Superstein. Now, they were not shareholders all at one time, sir, and the evidence in this Commission is, up to date, that Dr. Allard entered into a purchase agreement -- Paris Investments did as well, I believe -- on October 30th, 1959, and purchased the shares of Hooke and Prodor, and the evidence given by my learned friend Mr. Gill, is, in my respectful submission -- or the statement he made to you, sir, is not correct.

MR. GILL: Well sir, my learned friend has also forgotten to mention Mayfair Leaseholds, which was the

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J. Superstein - Wright Ex.

MR. GILL: (Cont.) company specially incorporated to take this particular lease of the building with the Provincial Government. The shareholders in that were M. A. Miles, C. A. Allard, Zane Feldman, and Ruth Superstein. This is an interlocking affair, and I think it is the full business of this Commission to investigate all -- that interlocking.

THE COMMISSIONER: There's no question whether we're going to investigate it. The question I have to decide is whether or not Mr. Superstein is entitled to -- in advance -- to consult with his solicitor with respect to giving his evidence. I think that's what I have to decide.

MR. G.H.STEER: Mr. Commissioner, I am not here asking for any special privileges, either for Mr. Superstein or for myself. I take it that when a man is to be called as a witness before this Commission, he is going to be told what he is going to be questioned about. Mr. Superstein is not here under those circumstances. He is here to answer an innuendo that was made against his personal character, and for that purpose only. Now, if he is to be called on any other question, I take it that Commission counsel will call him and he will notify him in the ordinary way as to what it is he has to answer questions about.

THE COMMISSIONER: I think perhaps, Mr. Clement, you might help me with regard -- and tell me what the practice has been with regard to your summoning witnesses. I think

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J. Superstein - Wright Ex.

THE COMMISSIONER: (Cont.) that will straighten it out.

MR. CLEMENT: Generally speaking, sir, I have indicated to the witnesses the topic on which I will ask them to assist the Commission, and this has been necessary in many cases because documents are involved; in connection with governmental witnesses we have had the assistance of Mr. Friedman in having documents produced. I indicated to Mr. Friedman that while the subpoena duces tecum was in fairly general terms, this would be the direction of the evidence-in-chief which I wish to follow.

THE COMMISSIONER: And what has been your practice with these witnesses when documents are involved that they are going to be questioned on? What has been your practice with regard to that?

MR. CLEMENT: My practice, sir, has not been to brief witnesses myself in advance. The nature of this inquiry made it seem to me that perhaps it would be desirable if I merely brought their testimony before you without reviewing it myself.

THE COMMISSIONER: But have you made the documents available to them?

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J. Superstein - Wright Ex.

MR. CLEMENT: Generally the documents, well, I should say that in connection with Mr. Lash and Mr. Gertler, as all counsel here know, I went over what appeared to me to be the relevant documents with them in order that they could refresh their memories on matters some fifteen years old or whatever the period of time was; but I haven't attempted to review documents with witnesses generally speaking.

THE COMMISSIONER: But you have made them available to them?

MR. CLEMENT: Yes, if they required them, yes, of course, of course, anything that is in evidence, sir; and as far as the records, an example of Doral Developments, North West Trust, Mayfair Leaseholds, all of these records are brought here because of a subpoena duces tecum to bring documents. The witness who may be cross-examined on documents has not necessarily brought those documents, they have been produced for the Inquiry because of a subpoena to the proper officer in whose custody those documents were. Under those circumstances it may or may not have been the case.

THE COMMISSIONER: In the case of Mr. Lash and Mr. Gertler, were the documents made available to them prior to their -

MR. CLEMENT: Yes, I spent part of an afternoon with each, putting the documents before them. Mr. Gill was present in connection with Mr. Lash, no one was present with

2-B-2

J. Superstein - Wright Ex.

MR. CLEMENT: (Cont.) Mr. Gertler, when I did this with Mr. Gertler.

THE COMMISSIONER: Now, has anyone else got any submission? Mr. Maynard? Mr. Clement, excuse me?

MR. CLEMENT: I was just going to say, sir, perhaps I should not be remarking on the question of relevancy from time to time, but it does seem to me that it is a subject which might be kept in mind and Mr. Cameron Steer has pointed out, as the record shows, that when I filed the papers, the corporate papers relating to Doral Developments that this Doral Developments was originally indorporated by Mr. Hooke and Mr. Prodor, and they both got out together in the fall of 1959, which is subsequent to the events we are concerned in at this moment of time.

THE COMMISSIONER: Anybody else? Mr. Maynard?

MR. MAYNARD: Mr. Commissioner, it was the privilege of my good friends to the left to ask Commission counsel to produce Mr. Superstein to deal with any of these matters before the Commission at any time. As far as I know they have not seen fit to do so, and Mr. Superstein is here merely by an accident, and I am giving my good friend, Mr. Wright, the benefit of the doubt when I use the word "accident", merely by an accident as a result of a statement made by Mr. Wright concerning an allegation that some of the monies that Mr. Superstein had received -

MR. WRIGHT: That was never the allegation, it was never related specifically to Mr. Superstein.

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J. Superstein - Wright Ex.

MR. MAYNARD:

I read from the Commission

testimony at page 2380:

"MR. WRIGHT: My Lord, the only point which arises with reference to this is that allegations, an allegation has been made, not here, and I only mention this because it is clear that no one wants that thing in, that some of this money found its way back to the Government."

and that is the money that is referred to in the statement now filed as Exhibit 346.

" ... that some of this money somehow found its way back to the Government."

Now, if Mr. Wright had never made that allegation or this statement before this Inquiry Mr. Superstein would not be here today. Mr. Wright could have asked Mr. Clement to call Mr. Superstein at any time on any of the matters relating to the North West Trust, to Doral Investments or any other company in which Mr. Superstein is a shareholder or Director, or has anything to do with, is in any way connected. I have no objection to Mr. Superstein being called on these matters, but I am in the position with Mr. Steer, that unless and until Mr. Superstein is given notice that he is to appear to deal with certain aspects of this Inquiry, then I suggest that it is improper for my friend Mr. Wright to take advantage of a statement that he made himself to bring the witness here, and who would not come under those circumstances to deny the allegation that was

2-B-4

J. Superstein - Wright Ex.

MR. MAYNARD: (Cont.) made by my friend Mr. Wright last Thursday!

Anyone would do so, and if this is the tactic that my friend is going to use, make certain allegations about certain people in order to force them to come in here and testify to their good name and their reputation, then I suggest that Mr. Wright is a way out of line; and I submit, Mr. Commissioner that all Mr. Wright has to do is to ask Mr. Clement to produce Mr. Superstein to discuss any of the matters that are before the Commission, and Mr. Clement will be most delighted to do so. Until he does so then he is to be restricted to an examination on the statement that he made himself last Thursday which has brought Mr. Superstein before us.

THE COMMISSIONER: Any other counsel have any other submission?

MR. BOWEN: I would suggest, My Lord, before you rule on this matter that you will take into account the dilemma that probably I am going to be faced with in cross-examining this witness, and if you are going to allow further cross-examination to try and delineate and define what you will allow and what you will not allow, and what subjects may be inquired into for our benefit.

THE COMMISSIONER: Well, I am satisfied that Mr. Superstein voluntarily offered to come in as a witness in order that he could answer a suggestion that was made by Mr. Wright last week; and on that basis I am going to confine his questioning to that statement: and if any

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J. Superstein - Wright Ex.

THE COMMISSIONER: (Cont.) counsel wishes Mr. Superstein recalled to give evidence with respect to other aspects of Northwest Utilities or North West Trust Building he should inform Mr. Clement and he will take the necessary steps to recall him. So, gentlemen, just confine your questions on that basis, the basis of that statement.

A Your Lordship, as a citizen of this country I agreed to come here personally, myself, and to allow my personal statement to be -

THE COMMISSIONER: Yes, that has already been ruled on, Mr. Superstein.

A To put -

MR. G. H. STEER: That is all right.

THE COMMISSIONER: That has already been ruled on and we will just proceed on that basis. Now, where are we at? Mr. Wright, I guess?

Q MR. WRIGHT: Mr. Superstein, with regard to the money realized from this sale and, of course, the money from the whole sale I was talking about last week, not the particular portion that went to you; with regard to that money, did any of it to your knowledge find its way back to any member of the Government?

A No.

Q Was any benefit conferred to your knowledge upon any member of the Government?

A No.

Q In connection with this sale?

2-B-6

J. Superstein - Wright Ex.

A No.

Q And that is your -

MR. G. H. STEER: That is his -

Q MR. WRIGHT: - personal knowledge of it or
your recollection or what?

MR. G. H. STEER: That is his oath.

MR. WRIGHT: His oath, well, of course it is
his oath Mr. Steer.

MR. G. H. STEER: And you need not go further.

Q MR. WRIGHT: Well, it is up to me where I go,
Mr. Steer, please, subject to the learned Commissioner's
ruling.

A I made \$82,500.00 profit on this building.

Q Yes?

A I reported this to the National Revenue and I paid income
tax on \$82,500.00.

Q Yes?

A I was kind enough in my opinion to present to you today as
an Exhibit my personal statement.

Q Well, it is a statement.

A And it speaks for itself.

Q It is a statement of the sale, isn't it, Mr. Superstein,
not at all personal?

A It is my personal statement that I -

Q It is addressed to you?

A - I have presented today.

Q But the relevance of Doral Investments, Mr. Superstein,

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J. Superstein - Wright Ex.

Q (Cont.) is this, that in that same year not very long after this transaction was completed Dr., a number of shareholders of whom Dr. Allard was one and Paris Investments Limited, which is also a company of Dr. Allard's, was another, contracted in effect to buy the company from Mr. Hooke; was there any relation to your knowledge between that purchase and this sale?

A I am unable to answer this question because I am not acquainted with my file. I will be delighted to come back sometimes at the convenience of the Commission and answer these questions, and I am asking no special privileges.

Q I explain that Mr. Superstein is, well, the circumstances are such that perhaps I had better conclude my cross-examination at this time.

THE COMMISSIONER: Yes, I think so. You indicate to Mr. Clement, any counsel can indicate to Mr. Clement that he wants Mr. Superstein recalled and he will be recalled. Now, Mr. Cameron Steer, have you any questions on this aspect?

MR. G.A.C. STEER: I think I would follow Mr. Gill, sir.

THE COMMISSIONER: Yes, Mr. Gill, I am sorry, I got out of line here. Mr. Gill, you are next.

MR. GILL: No, Mr. Wright was taking my place because we anticipated it might go the whole morning.

THE COMMISSIONER: Yes, I lost my priorities.

MR. GILL: So that I think Mr. Bowen and Mr.

2-B-8

J. Superstein - Gill Ex.

MR. GILL: (Cont.) Crawford examine and then myself, and then Mr. Steer.

THE COMMISSIONER: Yes that's right. Now, Mr. Bowen?

MR. BOWEN: No questions, sir, on this restricted matter.

THE COMMISSIONER: Mr. Crawford?

MR. CRAWFORD: I have no questions, Mr. Commissioner.

THE COMMISSIONER: Now I think I am back to you now, Mr. Gill.

MR. GILL EXAMINES THE WITNESS:

Q The battery seems to have gone ahead. Might I have Exhibit 346, please? I think it is on your desk, Mr. Commissioner. That is another copy of this.

What I am handing to the witness, Mr. Commissioner, is a copy from the file of the North West Trust Company of the statement to Mr. Superstein which is undated but which is the document from which Exhibit 346 was Xeroxed. I always feel happier back behind counsel table.

You are looking at Exhibit 346, Mr. Superstein, you have got it in front of you?

A Yes it is in front of me.

Q Thank you. Did I understand you to tell the Commissioner that until yesterday you hadn't seen this statement before?

A Not to the best of my memory.

Q I see, where do you think it went to?

2-B-9

J. Superstein - Gill Ex.

A It passed through the Edmonton Produce.

Q I see, and it is addressed, you will note, to Mr. J. Superstein, Edmonton Produce, Northwestern Utilities Building, Edmonton, Alberta, is that correct?

A It is addressed that way, yes.

Q I see. Well, did you get the cheque of \$80,000.00 that it refers to of May 4th, 1959?

A Yes.

Q That didn't go missing?

A I have replied.

Q And initially you put your money in, \$20,000.00 on March 10th, is that correct, of 1959?

A According to this statement it is correct.

Q Well, you were the only one who put up any money?

A Not me.

Q Oh, who put up the money?

A Edmonton Produce.

Q Which was your company?

A That's right.

Q And why would you be the only one to put up money if you were just a member of a syndicate?

A Well, I don't recollect the situation at this time but I assume Dr. Allard was quite busy so I just put it up on a temporary basis.

Q And it shows that Mayfair Motors Limited on April 28th 1959, put in three thousand three hundred and thirty-three thirty-four, Eagle Management the same amount less one cent,

2-B-10

J. Superstein - Gill Ex.

Q (Cont.) and Northgate Leaseholds the same amount; so that those three companies finally put in \$10,000.00 on April 28th, 1959, is that correct?

A According to this statement, yes.

Q Would that have any reference to the fact that the lease between Mayfair Leaseholds Limited and the Provincial Government is also dated April 28th, 1959, Exhibit 35 in these proceedings?

A Would you repeat that question, please?

Q Does the date April 28th, 1959 when the money comes in from the three Allard companies, have any significance, particularly bearing in mind that the date of the lease, Exhibit 35, is also April 28th 1959?

A The Exhibit that you refer to, I don't think I have ever seen, the lease.

Q Could it be shown, please, to the witness? It should be, it may be 34, I am just going from memory, and it is probably bad. And you might also show him Exhibit 341 which is an executed copy of the same document.

THE COMMISSIONER: Exhibit 35 is a notarial copy of the lease.

MR. GILL: That is correct, sir.

MR. CLEMENT: Yes, that seems not to be here, some counsel must have it.

MR. MAYNARD: 341 is the same.

THE COMMISSIONER: I believe there are some Exhibits on my desk and that may be one of them.

2-B-11

J. Superstein - Gill Ex.

MR. CLEMENT: I thought I brought those out,
sir.

THE COMMISSIONER: Just bring those Exhibits out,
please.

MR. SHORT: Here is 34.

MR. GILL: 35, I think 35 or 341, Mr.

Commissioner, are the same documents.

THE COMMISSIONER: No, I haven't got it.

Q MR. GILL: Mr. Superstein, I am showing you
Exhibit 35 in these proceedings, which is an indenture
made on the 28th of April in the year of our Lord 1959,
and it bears a signature, the original and duplicate,
A. J. Hooke, Acting Minister of Public Works; have you
ever seen that document before?

A No, I have never seen it.

Q Did you know about it on April 28th 1959?

A About this document?

Q About the lease between Mayfair Leaseholds Limited and the
Government of Alberta?

A Well, I didn't know about this document.

Q But you knew there was going, you knew there was going to
be a lease of the building you owned half of actually?

A I didn't know that, no.

Q You didn't?

A No.

Q Is it just coincidence that finally the Allard companies
in Exhibit 346 paid back to you \$10,000.00 on the day that

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J. Superstein - Gill Ex.

Q (Cont.) lease is executed?

A Well, he owed me \$10,000.00.

Q Well, why was it paid back on the day the lease was executed?

A You just brought it to my attention, it made no difference to me.

Q It didn't have anything to do with you happening to do something to get that lease?

A No, of course not.

Q I see. Did you do anything to help get the lease between the Northwest Utility Building, which you bought half of, and the Government of Alberta?

A No.

Q Nothing?

A No.

Q I see. Now, looking at Exhibit 346, your statement, you will notice that a cheque came in May 7th from Brower and Johnson to North West Trust Company of \$190,000.00, \$190,750.00, do you see that coming in?

A Yes, I see it, yes.

Q It is right in front of you?

A Yes, I see it.

Q You see it, and then on May 4th you got your other investment of \$10,000.00 back, is that correct, following down the statement?

A I got eighty thousand according to this statement.

Q Well, that statement also shows on May 4th 1959 to J.

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J. Superstein - Gill Ex.

Q (Cont.) Superstein, \$10,000.00, correct?

MR. G. H. STEER: Up above there.

A April 29th, I see three thirty-three, three times, three thousand three hundred and thirty-three, and twenty thousand and a hundred and ninety thousand.

Q MR. GILL: So you got your twenty thousand back by May 4th, you got one cheque for ten and another cheque for ten, so your original investment was returned, is that right?

A Yes.

Q And Eagle Management Limited about the same time got returned three thousand three hundred and thirty-three, thirty-three?

A There was three times three thousand three hundred and thirty-three.

Q Yes?

A Because it was the auditor put this in, not me, this was detail, this is detail, I would not be acquainted with such a detail.

Q I see. Well, there is just a little detail in there Mr. Superstein, that you might explain to me, there is \$2,500.00 more that you got than anybody else got, and I wondered why?

A I have explained that.

Q Well, perhaps your explanation lost me, would you go through it again, please?

A I said that there was a charge by North West Trust Company

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J. Superstein - Gill Ex.

A (Cont.) for the services which I didn't agree with.

Q Well, the charge is on there, isn't it, three thousand and some hundred dollars?

A \$3,543.09.

Q You didn't agree with that charge?

A No.

Q I see, so that then what happened?

A I discussed it with Mr. Miles and then with Dr. Allard, to the best of my memory, and I agreed to pay on my share approximately a little better than five hundred, and therefore I received back twenty-five hundred dollars.

Q You got back more than anybody else?

A I beg your pardon?

Q You got \$2,500.00 back more than anyone else?

A Well, I didn't agree to the charges.

Q I see. You will note that the three companies, Eagle Management, Northgate Leaseholds and Mayfair got back their original investment plus \$80,000.00, correct? One gets twenty-six thousand and some odd -

A I don't have that statement what they got.

Q Oh, Mr. Superstein, even you can read a statement, can you not, sir? Look at this, Eagle Management, May 4th, \$26,666.67, so that they get their twenty thousand and they get back the six thousand six hundred and sixty-six original investment, correct?

A That is correct.

Q And on the same date, Mayfair Motors got thirty thousand,

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J. Superstein - Gill Ex.

Q (Cont.) correct?

A According to that statement, yes.

Q And Northgate got another thirty?

A Yes.

Q So you take those three figures and you get eighty-six thousand six hundred and sixty-six, sixty-seven, and you take away -

THE COMMISSIONER: Mr. Gill, excuse me, if you take those two items there you get ninety thousand, I don't know why you eliminate the one, there is two payments there totalling \$30,000.00.

MR. GILL: Mr. Commissioner, thirty, thirty and twenty-six, those three.

MR. COMMISSIONER: Yes, but I mean -

MR. GILL: They make eighty.

THE COMMISSIONER: You may as well lump those two together because they make thirty thousand, and you will save a lot of confusion and a lot of odd cents.

Q MR. GILL: So that taking away the refund of the original investment the three companies got \$80,000.00, from that statement?

A They got ninety thousand.

MR. G. H. STEER: Taking away the original investment.

A Oh, yes, eighty thousand.

Q MR. GILL: They got the ten of the original investment back and they got another eighty, and that's all

2-B-16

J. Superstein - Gill Ex.

Q (Cont.) they got back, wasn't it, from that statement?

A According to that statement, yes.

Q You came out ahead by \$2,500.00?

A Well, I don't think I got ahead of anybody, I wouldn't use that.

Q What did you do with it, Mr. Superstein?

A I beg your pardon?

Q What did you do with the twenty-five hundred?

A I kept it, if I got it.

Q I see, did you deliver it to anybody on behalf of anyone?

A No, I told you I paid income tax on \$82,500.00 profit.

Q No, I am just wondering if that \$2,500.00 was made as a present to anybody?

A No.

Q I see, it was not delivered or left on anyone's desk?

A No.

Q By you on behalf of your associates?

A No.

Q I see. You don't recall exactly how you received that \$2,500.00, by cheque was it?

A This was all cheques, it was a cheque.

Q I see, did you endorse the cheque to anyone?

A No.

Q Very well, thank you, Mr. Superstein.

Oh, Mr. Superstein, how did Mr. Giannone get into this, did he cut you out and then you have to buy him out?

A I can't answer that, you will have to ask the agent.

2-B-17

J. Superstein - Gill Ex.

Q I see, but you were dealing with North West Trust or Northwestern Utilities?

A Personally, no.

Q But your company that you were a director and shareholder of, North West Trust, was?

A The North West Trust was.

Q And they made an offer for the building?

A Yes.

Q And you anticipated that offer would be accepted?

A I had hoped.

Q And then Mr. Giannone came from nowhere and cut you out, didn't he?

A I don't know anything about that.

Q I see, but he made \$20,000.00 on that little transaction?

A Well, I made \$82,500.00.

Q So that he was a bit of a piker, was he?

A I still made eighty-two thousand five hundred, sixty thousand more than he did.

THE COMMISSIONER: I think at this point we will adjourn.

(The Hearing stood adjourned at 11:15 and resumed at 11:40.)

3-P-1

J. Superstein - G.A.C Steer - Ex.

THE COMMISSIONER:

Mr. Steer?

MR. STEER EXAMINES THE WITNESS:

Q I am obliged, Mr. Commissioner. Mr. Superstein, you indicated I think to the Commissioner that at the beginning you didn't know anything about any other party having an interest in the building other than Dr. Allard, is that correct?

A That is correct.

Q You were to have a one half interest in the building and Dr. Allard was to have the other, is this the way it worked out?

A Yes.

Q Or was that your original arrangement?

A That was the original understanding.

Q And did you anticipate that Dr. Allard might put his interest in one half interest in a number of companies which he was interested?

A I wouldn't know that.

Q You wouldn't know?

A At that time.

Q You did ultimately find out what companies Dr. Allard put his one half interest in did you not?

A Yes.

Q And was this a matter to which you objected or were you perfectly satisfied?

A I was satisfied.

Q And you knew that Eagle Management had a portion of the interest?

3-P-2

J. Superstein - G.A.C. Steer Ex.

A Yes.

Q And Mayfair Motors?

A Mayfair Leaseholds?

Q Mayfair Motors?

A Yes.

Q And what about Northgate Leasehold?

A Yes.

Q And would I be correct in suggesting that your position was, I have half of this deal, Dr. Allard has the other half and where he puts his half is no concern of mine?

A That is correct.

Q Now, it was suggested to you sir from the account that the money, you having put in twenty thousand, you got back ten thousand on May 29th which is one half and I show you a letter --

THE COMMISSIONER: It is April 29th according to the statement.

Q MR. STEER: April 29th, I said May, I am sorry. I show you a letter which appears in North West Trust file which is a copy dated April 27th, 1959, directed to Edmonton Produce, to your attention and the letter reads

"We refer to our letter of April 9th and in accordance with your instructions are paying \$10,000.00 to Mr. J. Superstein. This is the money which is due to you from the other members of the Syndicate, yours very truly,
North West Trust Company."

3-P-3

J. Superstein - G.A.C. Steer Ex.

Q (cont.) Did you receive that letter at
Edmonton Produce?

A Yes.

Q And then I would refer you to another letter which is dated
April 9th or was on the file -- the other letter does not
appear to be on the file, sir, perhaps this letter -- it is
not necessary to mark this letter sir, I have read it into
the record.

Now sir, as I understand your evidence, it was that
North West Trust handled the matter of leasing this building
to the Government, is that correct?

A Correct.

Q And was there any discussion between you and Dr. Allard and
perhaps Mr. Miles prior to leasing it to the Government as
to offering it to the Government? Have you any memory of
that?

A No I don't think -- some discussions --

Q Pardon?

A There were some discussions going on but I don't remember
just exactly what went on.

Q You have no accurate memory of what was said at the
discussions, is this correct?

A That is correct.

Q Have you any memory of discussions taking place with
regard to leasing the building to the Government?

A If I remember correctly, we discussed it at some length and
for the purpose of getting as big a mortgage as possible we

3-P-4

J. Superstein - G.A.C. Steer Ex.

A (cont.) had hoped that we could get some national firm or the Government to rent the building.

Q I see. Now, is then this correct that North West Trust was acting for you among other people, you were one of its clients in this matter?

A That is correct.

Q And as far as the actual mechanics of approaching the Government and so on, this was left to Mr. Miles who was the managing director at that time, is this correct?

A Correct.

Q Now, you were questioned about the \$2,500.00 which shows on that statement, Exhibit 346 I believe, is that the Exhibit number? That is the one sir, thank you. Now, as I understand it sir, what you did was you objected to North West Trust's account of three thousand five hundred and some odd dollars which shows at the bottom of that statement, is this correct?

A That's correct.

Q And the effect of this \$2,500.00, is this it Mr. Superstein, that you paid five hundred and some odd dollars to North West Trust against that bill which appears on the bottom of the account, is that correct?

A Correct.

Q And the other companies paid the balance, is this right?

A Yes, after looking at this a little more carefully I see that they absorbed --

3-P-5

J. Superstein - G.A.C. Steer Ex.
- Maynard Ex.

Q Yes, in other words, they paid more of North West Trust's bill than you did?

A That is correct.

Q Dr. Allard's companies and Eagle Management which was half Dr. Allard's and half Mr. Miles, is that correct?

A Yes, it was interlocking companies.

Q Fine, thanks very much.

THE COMMISSIONER: Mr. Maynard?

MR. MAYNARD EXAMINES THE WITNESS:

Q Mr. Superstein, had you ever met Mr. Wright before this Inquiry started?

A Yes.

Q Had you ever met Mr. Gill before this Inquiry started?

A Yes.

Q Have you ever had discussions with these two gentlemen?

A Yes.

Q And have they ever acted for you at anytime?

A Yes.

Q In legal work?

A Yes.

Q During your discussions with them at anytime, at anytime, did you ever convey to them any information that you had paid out any of the monies received from this transaction to any Cabinet Minister?

A Never.

Q Thank you.

THE COMMISSIONER: Mr. George Steer?

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J. Superstein - Maynard Ex.

MR. GEORGE STEER: I have no questions.

THE COMMISSIONER: Mr. Superstein -- Mr. Clement?

MR. CLEMENT: Well, perhaps I was going to anticipate what Your Lordship was about to say. Since my friends wish to explore matters that I hadn't covered in examination in chief, I would suggest sir that we might recall Mr. Superstein tomorrow at which time he will have had an opportunity to refresh his memory from documents and company records. It is my understanding that counsel wish to inquire into corporate affairs of North West Trust Company insofar as Mr. Superstein is a Director of it; of Doral Developments, insofar as there is relevancy there having regard to the fact that Mr. Hooke and Mr. Prodor didn't sell their interests in that company until November of 1959. It may be, it is my recollection that Mr. Superstein did have an interest in the Syndicate which ultimately became Beaver Land Company Limited, I think my memory is correct on that.

MR. G.A.C. STEER: I think not, but the record will show.

MR. CLEMENT: The record will show. Now, if there is anything further that counsel wish to direct questions to Mr. Superstein on, I would suggest that they now state it so that he can now have an opportunity of reviewing the documents and assisting the Inquiry as much as possible and that he can then be recalled tomorrow morning.

THE COMMISSIONER: Is there any other matter gentlemen

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J. Superstein

THE COMMISSIONER: (cont.) other than those mentioned by Mr. Clement?

MR. GILL: I wonder, did my learned friend mention Mayfair Leaseholds?

MR. CLEMENT: No, I didn't.

MR. GILL: Mr. Superstein is shown as a shareholder in that.

MR. CLEMENT: I think I was confusing Beaver Land with Mayfair Leaseholds.

MR. GILL: If Beaver Land is involved then I think it should be to refresh his memory and did you mention Doral? I think you did and North West Trust and the involvement of one Rabbi Sachs.

MR. G.A.C. STEER: Surely not in this subject?

MR. GILL: That came in and out of North West Trust.

MR. G.A.C. STEER: Pardon?

MR. GILL: That came in and out of North West Trust.

MR. CLEMENT: Well, you understand that that particular topic, the matter of Rabbi Sachs and whatever complaints he had to make, I had scheduled for that aspect of the Inquiry into Mr. Hinman's affairs.

MR. GILL: Quite so but I notice Mr. Clement and Mr. Commissioner that in North West Trust Company the Rabbi is shown as a shareholder in 1961 and I believe that this

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J. Superstein

MR. GILL: (cont.) witness may have some information
concerning the Rabbi in and out.

MR. G.A.C. STEER: I wonder if we can get some
assistance sir because it does concern me in a certain way
because I am appearing for Dr. Allard. What is my friend
talking about, I wonder?

MR. CLEMENT: Yes, there is a further difficulty
sir, Mr. McCuaig isn't here and if Mr. Gill is suggesting
an overlapping then this matter will have to be postponed --

MR. GILL: I am not suggesting that Mr.
Commissioner, I just want to, if there is any interlocking
or any relationship with North West Trust, Mr. Superstein
and Mr. Delzberg and these people whose names appear from
time to time as either shareholders or directors of North
West Trust in this period that I consider somewhat crucial.

THE COMMISSIONER: Does that answer your question Mr.
Steer?

MR. G.A.C. STEER: I believe I don't have any more
information than I did originally.

THE COMMISSIONER: Perhaps you and Mr. Gill can get
together at the adjournment and see if you can clarify what
your understanding is. Mr. Wright?

MR. WRIGHT: Yes My Lord, as I understand it,
we are being asked to say what we will be questioning Mr.
Superstein about as if we have a case to make.

THE COMMISSIONER: I don't think that is the case. All
Mr. Steer has asked for, he wants to know why Mr. Superstein

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J. Superstein

THE COMMISSIONER: (cont.) is being called.

MR. WRIGHT: Yes.

THE COMMISSIONER: And I think, my understanding from Mr. Clement is that all witnesses, it has been indicated to them what the general tenure of their evidence --

MR. CLEMENT: I have indicated to the witnesses the topic on which I wish to address themselves. I don't think it is going any further than that, sir. If it is an Inquiry into Doral, they should be told that so that they can --

MR. WRIGHT: Yes.

MR. CLEMENT: -- come with the information.

MR. WRIGHT: But the main object of the exercise is to --

THE COMMISSIONER: I haven't in this Inquiry yet Mr. Wright and I certainly don't propose in relation to Mr. Superstein to limit the Inquiry but for purposes of information I understand those are general matters and certainly anything arising out of that as they have in all other cases.

MR. WRIGHT: Certainly My Lord we will do our best to make sure that any documents that are necessary are here in advance so there is not a lot of floundering around but, on the other hand the subject of the exercise of course, is to discover the business dealings of Mr. Hooke if they bear on his office as a Cabinet Minister and as the Inquiry goes along if Mr. Superstein can assist us with that, we may

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J. Superstein

M.A. Miles - Clement Ex.

MR. WRIGHT: (cont.) be asking questions that we don't know at this time. We have no more knowledge than anyone else.

THE COMMISSIONER: There certainly hasn't been any restrictions imposed so far in this Inquiry and I don't think within reason -- I don't propose to change the policy that I have been following as far as any witness is concerned.

MR. WRIGHT: Yes, fine, thank you.

THE COMMISSIONER: Now Mr. Superstein we would like you to be here tomorrow morning.

A Yes, My Lord.

THE COMMISSIONER: You may retire.
(Witness stands down.)

MR. CLEMENT: Mr. Commissioner, it would probably be convenient for the purpose of continuity of evidence if I recall Mr. Adam Miles to deal again with the subject which Mr. Superstein has brought forward today.

M.A. MILES, recalled, examined by Mr. Clement:

Q Mr. Miles, you acknowledge you are still under oath for the purposes of this Inquiry?

A I do.

Q You will recall when you were giving evidence on Thursday last that you had some discussion with counsel of this document which is now Exhibit --

MR. SHORT: That is the original which Mr. Wright put in, I think.

Q MR. CLEMENT: -- 346. Yes, I will leave the

3-P-11

M.A. Miles - Clement Ex.

Q (cont.) original before you, 346 is a Xerox copy of the original and, there has been questions raised and so on in respect of this item of \$2,500.00 paid to J. Superstein under date May 29th, 1959 on this statement. Now Mr. Miles, as managing director of North West Trust at that time could you give your own version of what this \$2,500.00 represented? Why was this sum paid in relation to the whole of the transaction?

A If you look at the statement, you see at one stage a balance of \$10,000.00 on the credit side. This represents the balance after the distribution of eighty thousand each to the two parties. Mr. Superstein eighty thousand and the three companies of Dr. Allard, eighty thousand.

Q That is the item, the balance shown under the last entry for May 4th, 1959?

A Right. This was the balance left in the account out of which the disbursements were to be made.

Q Oh yes, yes, and those disbursements --

A Amounted as follows, Brower Johnson, Smith Clement, Great West Life --

Q Well, let's be clear, who was acting for who at the time if you don't mind? This is coming close and I don't want to get any closer.

A Okay.

Q Brower Johnson in my understanding were acting for the Giannone group?

A No, Brower Johnson were acting for the North West Trust.

3-P-12

M.A. Miles - Clement Ex.

Q I see, all right, oh, that's correct and Shortreed and Company were acting --

A Right but that had nothing to do with this account.

Q No, I was just confused for a moment. Brower Johnson acting for North West Trust in this matter, Smith Clement and Company acting for the mortgagee, Great West Life which has been referred to and which were standing by with some substantial mortgage money?

A Right.

Q And the payment to Great West Life of their stand by fee or, relinquishment fee --

A Relinquishment --

Q -- or whatever you want to call it?

A That is correct and then if I may jump it, a fee to North West Trust of three thousand five hundred forty-three.

3-M-1

M. A. Miles - Clement Ex.

Q And I think in your evidence before, Mr. Miles, you have already stated that was considered and determined as far as the North West Trust Company was concerned -- .

A Right.

Q -- as being a proper charge for the services it had done.

A Right.

Q But apparently that didn't find universal approval.

A Right.

Q Would you deal with it?

A Yes. At that stage Mr. Superstein raised an objection as to the amount of work done by North West Trust, which I think I pointed out here on Thursday, as to who it was -- as to who did what; and at that time Dr. Allard and Mr. Superstein agreed that this would be adjusted, and the adjustment took place in the following manner: it was agreed that Mr. Superstein would pay an amount of somewhere around \$521.00, and the three companies would pay \$3,021.00, coming back to the same total amount of the fee.

Q Yes, so the trust company fee then was borne at a different ratio from the equitable interests?

A Right.

Q Yes. All right. And what was the end result as far as distribution of profit was concerned?

A Well, in effect Mr. Superstein received \$82,500.00, and the Allard companies \$80,000.00.

Q Yes. Would you answer my friends, please?

THE COMMISSIONER:

Mr. Gill?

3-M-2

M. A. Miles - Gill Ex.

MR. GILL:

Mr. Miles -- .

THE COMMISSIONER:

Mr. Wright, are you anxious to get

away?

MR. WRIGHT:

No, that's all right, my Lord.

MR. GILL:

I'm sorry --thank you, my Lord.

MR. GILL EXAMINES WITNESS:

Q Mr. Miles, just let us recap the history of that Northwest Utilities Building. As I understand it it was sold to Mr. Giannone and his group for some \$360,000.00.

A Yes.

Q And then your group bought it for \$380,000.00, and your group sold it to Mrs. Guest, or the Tankoos-Yarman for \$550,000.00?

A Yes.

Q So the profit was \$170,000.00 to your group?

A Yes.

Q Would you explain why the cheque from Brower Johnson on May 7th, 1959, was \$190,750.00?

A Well, you see, Mr. Gill, the group paid \$20,000.00 on account to Giannone. Then Mr. Brower only had to pay them -- had to pay the full amount to us, which was the hundred and ninety. Now, you notice there an amount of \$750.00 and this is the refund of insurance which was part of the disbursements above the eighty thousand --- to A. W. McLean Agencies, which was the insurance on the property, so when the purchaser took it over he assumed the insurance and repaid the premium.

3-M-3

M. A. Miles - Gill Ex.

Q Why did you pay Great West Life Assurance on May 29th, \$2,521.25?

A Because the total sum was agreed to \$3,000.00, and it was divided amongst Smith Clement and Great West Life, in proportions which they directed.

Q I notice that on April 29th, you show a new balance in the account. Is that correct?

A Yes, it is correct.

Q And on May 4th you make a number of statements -- I'm sorry -- a number of payments: 10,000 to Mr. Superstein; 3,000 to Eagle Management; 26,000 to Eagle Management; 30,000 to Mayfair and 30,000 to Northgate Leaseholds; 750 to McLean Agencies, and 80,000 to Edmonton Produce. Is that correct?

A Yes.

Q And they were all paid on May 4th?

A Yes -- excuse -- .

Q You see -- .

A -- no no --- you see, in bookkeeping -- it is a weird and wonderful thing--- .

Q It is so weird and wonderful that according to this -- .

A Yes.

Q --you paid out some -- everything except \$10,000.00 before you got it in.

A Well, it wasn't paid out. The cheque was prepared at the time when it was known -- the cheque may have been deposited Friday night -- if you check the date --- and the actual

3-M-4

M. A. Miles - Gill Ex.
- Wright Ex.

A (Cont.) date was Monday when it goes in to the accounting department.

Q But then -- .

A You know, things don't happen instantly; so that at the time we were dealing with known quantities and it wasn't possible to issue cheques on an account -- .

Q This is something like instant credit, in that you issue these cheques for \$180,750.00 before your ledger shows that you have received a hundred and ninety in?

A No, that wouldn't be correct. The cheque was prepared and dated, but not issued, so that you sometimes issue a cheque, but you do not hand it out until you have the money in the account.

Q It's rather wise, isn't it?

A It is wise.

Q Thank you.

THE COMMISSIONER: Mr. Bowen?

MR. BOWEN: No questions, sir.

THE COMMISSIONER: Mr. Crawford?

MR. CRAWFORD: No questions, sir.

THE COMMISSIONER: Mr. Wright?

MR. WRIGHT EXAMINES WITNESS:

Q Mr. Miles, you told us last time that at the time the Social Credit Building was being built, Mr. Hooke was a visitor to the offices of the North West Trust Company.

A I think I mentioned that he was there once.

Q Yes, and Dr. Allard -- was that a deal that Dr. Allard took

3-M-5

M. A. Miles - Wright Ex.

Q (Cont.) personally, or via the North West Trust Company, or how?

A I'm afraid I don't follow you. What do you mean by took the deal?

Q Well, the purchase of the premises, the letting, or sub-letting as the case may be, to the Treasury Branch, and so on. Was this a transaction that Dr. Allard handled himself, or was it handled through the North West Trust Company?

A Are we talking about Northwestern Utilities, or something else?

Q No, no, it has nothing to do with Northwestern Utilities, that transaction. This has to do with the North West Trust Company.

A North West Trust Company.

Q It is arising out of your evidence -- it doesn't matter -- .

A No, no, but I am saying, which transaction?

Q The Social Credit Building on Jasper Avenue.

A Oh, I'm sorry -- . There is no such thing as a Social Credit Building -- that is where you confused me.

Q Well, they -- .

A There is a building where they have -- .

Q Yes, they have headquarters -- .

A Yes, the Steak Loft.

THE COMMISSIONER: I don't know where we are at now.

MR. CLEMENT: I have no idea, sir. I have no idea of the relevancy of it. Mr. Miles was brought here -- .

Q MR. WRIGHT: In what connection was Mr. Hooke -- .

3-M-6

M. A. Miles - Wright Ex.

MR. MAYNARD:

Mr. Commissioner; there has been some objection taken in the past about a second kick at the bucket or a second bite at the apple. Mr. Miles was brought here to deal with this account concerning the Northwest Utilities Building, and Mr. Wright has already had the opportunity of examining Mr. Miles on the Social Credit Building, and he has done so. Now, he is rehashing ground that has been covered, and it has not been covered in -- .

THE COMMISSIONER:

I don't see any connection with the Social Credit Building and the North West Trust Building at all. I don't see -- I don't see what we are -- I don't get the connection, Mr. Wright.

Q

MR. WRIGHT: So far as I know, my Lord, there is no connection whatever between the Northwestern Utilities Building and the -- what is the correct name of the building?

A

The Steak Loft Building.

Q

The Steak -- ?

A

It's where the Steak Loft is.

Q

No, the Steak Loft is next door, I think.

A

No, no, the Steak Loft is on the main floor and upstairs, and the Social Credit League is in the basement.

Q

I see, and that building, except that Dr. Allard is involved in both -- .

MR. MAYNARD:

Mr. Commissioner, I object. Mr. Wright has already gone into this question once before. Now,

3-M-7

M. A. Miles - Wright Ex.

MR. MAYNARD: (Cont.) if he is going to be allowed to go into this question again, then all counsel around the table can start going into the question of the Social Credit Hall, the Steak Loft Building, and any other transaction that is not related to the Northwest Utilities Building or this particular statement.

MR. WRIGHT: My Lord, the witness is produced -- he can -- he wasn't produced by me and he can be asked questions with regard to his previous testimony, particularly when it is extremely relevant, as this may be.

THE COMMISSIONER: Are you asking him about some previous testimony he has given?

MR. WRIGHT: Yes.

THE COMMISSIONER: With respect to what?

MR. WRIGHT: With respect to Mr. Hooke coming to the offices of the North West Trust Company while this building was being set up, as I understand it -- or possibly built.

THE COMMISSIONER: Could you direct me to the evidence that you are referring to? I'm sorry --- .

MR. WRIGHT: My Lord -- .

THE COMMISSIONER: I must say I am at a loss. I thought you were talking about the North West Trust Building, and for some reason or other we have moved down Jasper Avenue and now we are at the Social Credit Building, and I don't -- I don't get the connection.

MR. WRIGHT: Why should there be a connection,

3-M-8

M. A. Miles - Wright Ex.

MR. WRIGHT: (Cont.) my Lord?

THE COMMISSIONER: I mean, I don't see -- I would like -- if you would direct my attention to the evidence you are referring to -- . I would like to get in the picture because I thought we were talking about the North West Trust Building, and now we're talking about -- on 5th Street, and now we're talking about a building on Jasper Avenue, and I don't see the connection.

MR. WRIGHT: That's right. This witness was called with respect to (a) the North West Trust Company and (b) the North West Trust Company's purchase and resale of the Northwestern Utilities Building. It has been -- he has been recalled with regard to this statement which is now an exhibit. I just want to ask him a further question that I didn't -- that he brought up himself in response to a question of mine last time, that's all -- and it concerns Mr. Hooke, it concerns Dr. Allard, and -- .

THE COMMISSIONER: Well, put your question, Mr. Wright, but I must say -- .

MR. WRIGHT: -- and it is extremely relevant to this inquiry.

THE COMMISSIONER: That every time we recall a witness if we are going to open the whole examination this thing will go on indefinitely, and I've got to draw the line somewhere; and I'm not trying to curb this inquiry but there is a limit that every time we recall a witness we seem to re-open all the re-examination, and it's -- I --

3-M-9

M. A. Miles - Wright Ex.

THE COMMISSIONER: (Cont.) I just think that we have to define our limits somewhere and somehow. Now, proceed with your question, but let's not keep re-opening and re-opening and re-opening, because we are not getting anywhere on that basis.

MR. WRIGHT: Yes, my Lord, I certainly think that fruitless re-opening of questions is to nobody's advantage at all.

THE COMMISSIONER: Well, proceed with your question and let's dispose of it.

Q MR. WRIGHT: Last time -- why I called it the Social Credit Building was because in your answer to me at page 2392 of the transcript, my Lord, we were asked -- you were asked:

"Q Did Mr. Hooke ever come to the North West Trust Company Building?"

and the answer was:

"A No, not at that time.

Q When did he?

A I recall one particular instance when the headquarters of the Social Credit Party was being built on Jasper Avenue.

Q Did the North West Trust Company assist in the arranging of that, by any chance?

A Not as a company.

Q In what capacity did the principals there assist?

A Wherein the property management people were asked

3-M-10

M. A. Miles - Wright Ex.

Q MR. WRIGHT: (Cont.)

A (Cont.) for advice how the building should be constructed -- ."

and so on. Now -- .

MR. MAYNARD: Now -- .

MR. CLEMENT: Now, if my friend is suggesting that the Social Credit Party was building this building, I don't -- .

MR. WRIGHT: No -- .

MR. CLEMENT: --get that from the evidence at all.

MR. WRIGHT: No, I'm not suggesting that -- .

MR. MAYNARD: What I am submitting to you, Mr.

Commissioner, is that this matter has already been dealt with by my good friend on previous occasions. He had the opportunity then to explore it more fully if he wanted to. He did not choose to do so and I don't think we should start re-opening this inquiry on every little topic that comes up simply because my friend thinks of something else two or three days later.

MR. WRIGHT: Well, that's what my friend may think, my Lord --.

MR. MAYNARD: That's exactly what I think and that is my submission to this -- .

THE COMMISSIONER: Well, proceed with your question, Mr. Wright, but -- .

MR. WRIGHT: I am trying, I am trying very hard--.

THE COMMISSIONER: -- to limit this thing.

3-M-11

M. A. Miles - Wright Ex.

MR. WRIGHT:

Yes. And who bought the place,

Mr. Miles?

A I beg your pardon?

Q Who bought the place?

A I presume Dr. Allard, or one of his companies.

Q Yes, and what was Mr. Hooke's role in that purchase?

A None, so far as I know.

Q Well, why did he come to the North West Trust Company?

A Because he was interested in what was going on there, and I believe there were other Ministers at that time who came in as well.

Q Yes, and did Mr. --- did Dr. Allard get onto the deal by Mr. Hooke?

A Not that I know of.

Q Were you offered any part of that transaction yourself?

A No.

Q How does your knowledge arise, then, of it?

A Because I was over there quite often watching the work progress.

Q Yes.

A With the architect.

Q Yes, and when did Mr. Hooke come to the North West Trust Company and consult you or Dr. Allard with reference to the purchase of the building? How did it line up?

A I think he came to pick us up. He wasn't sure when he would be going there, so he came and picked us up, that was all.

Q Yes, thank you.

3-M-12

M. A. Miles - Wright Ex.

M. E. Stewart - Clement Ex.

THE COMMISSIONER:

Mr. Cameron Steer?

MR. G.A.C. STEER:

I have no questions, sir.

THE COMMISSIONER:

Mr. Maynard?

MR. MAYNARD:

No questions, Mr. Commissioner.

THE COMMISSIONER:

Mr. Clement?

MR. CLEMENT:

Nothing, sir.

THE COMMISSIONER:

Fine, Mr. Miles.

(Witness retires.)

MR. CLEMENT:

Call Mr. Stewart, please.

MURRAY EDGAR STEWART, sworn, examined by Mr. Clement:

THE COMMISSIONER:

You may sit down, Mr. Stewart.

Q

MR. CLEMENT:

Mr. Stewart, you are now President
of Northwestern Utilities Ltd.?

A

That is correct.

Q

You have been employed by that company for a good number of
years?

A

Right.

Q

When did you first become employed with them?

A

1948.

Q

And you have been with them continuously since?

A

Yes.

Q

I believe you may not have any particular personal
knowledge of the transaction concerning the sale of the
Northwest Utilities Building in 1959?

A

Yes, I would say that I have a certain knowledge of it,
having been involved during the period of '57 to '59 in
attempting to dispose of the property.

3-M-13

M. E. Stewart - Clement Ex.

Q Yes -- some personal knowledge, and also the records of the company are available to you?

A That is correct.

Q Then, what was the course of development of this building -- with this building on 104th Street? You mentioned 1957. Is that the time that you determined to move?

A When the company announced plans to construct the building across Jasper Avenue, which it does not own but leased a space in, it became rather obvious to the real estate agents of the City that the other property would be for sale, and very early in '57 they began calling us to see if they could have an exclusive on it, and the rest of the kind of transactions that a real estate group attempts to arrange with an owner.

Q Yes, and did you give exclusive listings, or was it merely a general affair with each of these -- .

A We gave no exclusive listing. We informed all members of the local -- I have forgotten what the group is called --- The Edmonton Realty Association -- that the building was for sale.

Q Yes, and did you fix a price at that time?

A We fixed a price, I think, probably in the spring -- early spring -- January or February, if you can call that spring -- of 1958, after having had some assessments made of the value.

Q Mr. Stewart, I have been furnished, I believe, from the files of Northwestern Utilities Ltd., with a document dated July 10th, 1957. Can you tell me what that is?

3-M-14

M. E. Stewart - Clement Ex.

A This is a document that was prepared by our buildings engineer at the time, in which he set forth, as information for prospective purchasers of the property, what we considered to be the gross area and the net usable area, and certain pertinent data about air-conditioning and condition of the building and what items were to be removed by us when we moved into our rented property.

Q And this was made available to real estate agents generally?

A Yes.

Q Now, Mr. Commissioner, I will table that. If counsel wish to enter it as an exhibit, it is available. So then, after having fixed a price -- I have forgotten at what time you said -- ?

A Well, I'm somewhat uncertain. I realize that in 1957 the file doesn't really indicate that we told these prospective buyers what the price would be, but in the fall of '57, as I recall, we had some assessments made, and I think in the winter of '58 struck a price and announced this price. I think actually it may well have been with the submission of this document to the various realtors.

Q Yes, so that would be in 19 -- .

A Part of the difficulty was that we couldn't decide whether to dispose of all six lots or four lots or what.

Q Well then, let's come along, Mr. Stewart, to March of 1959, and in that month a sale was in fact made.

A That is correct.

Q There is in evidence a form of transfer executed by

3-M-15

M. E. Stewart - Clement Ex.

Q (Cont.) Northwestern Utilities Ltd. to North West Trust Company, being Exhibit 32, of the lots and building we are concerned with, for a price of \$360,000.00. Now, let's deal with this situation then briefly, Mr. Stewart. You sold the building, as far as Northwestern Utilities was concerned, you sold it for a price of \$360,000.00.

A That is correct.

Q And who was the purchaser directly from Northwestern Utilities?

A Who was the purchaser?

Q Yes.

A The purchaser of the property was -- from us -- was an outfit called Donat Properties Ltd. and Elizabeth C. Peets.

Q And did Mr. Giannone come into this picture?

A Mr. Giannone was the negotiator, after his lawyer stepped out of the picture, on their behalf.

Q And he may have been a shareholder in Donat Properties?

A He said that he was a shareholder in Donat Properties.

Q Now then, they made, that company or that group, made an offer of \$360,000.00 to Northwestern Utilities, which was accepted?

A That is correct.

Q Then, the company also received from North West Trust Company a letter dated March 4th in which \$375,000.00 is offered as the purchase price, and the exhibits show that on March 9th a letter was sent to North West Trust from Northwestern Utilities rejecting that offer. Do you wish me

3-M-16

M. E. Stewart - Clement Ex.

Q (Cont.) to show you that exhibit?

A No, no; that is correct.

Q Yes, and there is a difference of \$15,000.00 in those two figures, Mr. Stewart.

A There is a difference of \$15,000.00. The \$375,000.00 offer made by North West Trust Company on behalf of undeclared clients, was a time payment over five years, and with a reduction clause that could have brought the total payment down to \$350,000.00, if they had accelerated the payments. We judged the \$360,000.00 hard cash to be a better offer, and therefore accepted it.

Q On the balancing out of the factors?

A That is correct.

Q Now, how was the matter finally concluded, as far as the company records are concerned, and your own knowledge?

A The company records indicate that our entire transaction was with Mr. Shortreed, Mr. Giannone, Donat Properties, and Elizabeth C. Peets, that our sale of the property was -- documentation was made out on that basis, that we had no knowledge by anybody telling us or any other way, that North West Fidelity were still involved in the transaction --.

Q North West Trust.

A North West Trust -- excuse me -- were still involved in the transaction, and since, of course, have learned -- I learned today what the price was -- since have learned that Mr. Giannone filed with the Land Titles Office, I understand, coincident with our document, a document in turn transferring

3-M-17

M. E. Stewart - Clement Ex.

A (Cont.) to North West Trust, and that is why the transfer of land appears, I understand, as it does.

Q Yes.

A I'm not an expert in land transactions.

Q No. Well, then, there was a purchase, as the evidence shows, by North West Trust on behalf of clients, from the Giannone group at a price of \$380,000.00.

A This is what I heard this morning.

Q And you have no knowledge or information of that transaction, which was in fact in effect between the Giannone group and North West Trust.

A The only knowledge I have of it is that we received instructions from Mr. Giannone, or his representatives, that we should, in effect, give possession direct, not to his organization but to North West Trust. This was the only knowledge we had of this.

Q Yes. Now, the, from the inception of this purchase by the Giannone group, and the conveyancing of title as directed by Northwestern Utilities, did you have any discussions or dealings with Dr. Allard?

A No, we did not.

Q Did anyone in your company, so far as you know, have?

A No, as far as I know none of us had any dealing whatsoever with Dr. Allard nor, as I have already said, were we aware that North West Trust was representing him or was not representing him. The letter, as you know, says: on behalf of clients. After two years we would have sold the building

3-M-18

M. E. Stewart - Clement Ex.
- Gill Ex.

A (Cont.) to anyone.

Q For cash?

A Yes.

Q Yes. Then, how about Mr. Hooke, Mr. Stewart? Did his name appear at any time in any way in connection with any aspect of this transaction?

A No, it did not.

Q Would you answer my friends, please?

THE COMMISSIONER: Mr. Gill?

MR. GILL EXAMINES WITNESS:

Q Thank you, Mr. Commissicner. Mr. Stewart, did your company before selling the building try to rent it to anyone?

A No, we did not.

Q Did you discuss this?

A No, we did not.

Q About renting?

A No, we did not.

Q I think you told the Commissioner that you had some difficulty in deciding whether you would sell four lots or six lots?

A That is correct.

Q What was the difficulty?

A The difficulty was that we were causing to be built a rather large building on the other side of Jasper Avenue which we considered to be inadequately supplied with parking, and therefore we considered keeping two of the bare lots north of the old site for parking purposes. We were able,

3-M-19

M. E. Stewart - Gill Ex.

A (Cont.) however, to make suitable arrangements with the City of Edmonton for an exchange of property when the old fire hall came down and the Caravan Hotel was built, and this took care of our parking difficulties and we were able to sell all six lots.

Q When you rejected the offer of Mr. Miles on March 4th, 1959, in Exhibit 337, Mr. Stewart, on the letter headed "North-western Utilities" and under the signature of Mr. Metcalfe, Exhibit 337, you acknowledged the offer and you regret that it is not acceptable and you return the cheque of \$7,500.00. Is that correct? I am showing you the document.

A I presume it's correct.

Q Did you know on March 9th, when that rejection was made, that you would have an offer by either March 9th or March 10th from Mr. Giannone and his group?

A When this letter, as I understand it, went forward to Mr. Miles, Mr. Giannone's offer had already been accepted.

Q I see.

A As the letter says.

Q Had your company made any enquiries of the Government of the Province of Alberta about buying the building?

A I do not believe so. We had some communication with the City of Edmonton. There was some suggestion, if you will recall, that they might use it for a library, and we sent documentation to the Mayor at that time. I do not recall, and the file shows no contact with the Provincial Government.

3-M-20

M. E. Stewart - Gill Ex.
- G.A.C.Steer Ex.

Q I don't recall, Mr. Stewart. I come from a different city.

A I'm sorry. That's your penalty.

Q We don't think so.

(General laughter.)

MR. GILL: In fact November will, we hope, prove us right. We are still at the top of the league, and I give fair warning, sir, that on Grey Cup Day, if Calgary should be in it, I will declare a holiday.

(General laughter.)

MR. GILL: I don't think I have anything else, thank you.

THE COMMISSIONER: Mr. Bowen?

MR. BOWEN: No questions.

THE COMMISSIONER: Mr. Crawford?

MR. CRAWFORD: No questions, sir.

THE COMMISSIONER: Mr. Wright?

MR. WRIGHT: No questions, my Lord.

THE COMMISSIONER: Mr. Cameron Steer?

MR. G.A.C.STEER EXAMINES WITNESS:

Q Just a couple of small things, sir. Would you look through your file? You told Mr. Gill that Mr. Giannone's offer had been accepted. I think you will find a letter of March 6th in fact accepting the offer -- I'm not sure. Have you got your file here?

A Yes, and I believe that is correct, Mr. Steer.

Q This is from your memory -- it will complete the Commissioner's record.

3-M-21

M. E. Stewart - G.A.C.Steer Ex.

A Yes, we have a letter addressed to Mr. Shortreed of Shortreed, Shortreed and Stainton, dated March 6th, in which it accepts the offer that had been conveyed to us by him on March 4th.

Q Now, the next thing, I wonder if you would see if you can locate in your file a letter from Sydnie, Sutherland & Driscoll, directed to your company, of May 6th, 1958 --- May 16th -- I beg your pardon -- in which a mention is made of Dr. Allard having made an offer.

A Mr. Steer, this is a rather voluminous file -- .

Q I'm afraid it is, but I am sure the letter is in there.

3-B-1

M. E. Stewart - Steer Ex.

A Well, here is another letter that refers to the same matter. I have turned up -

Q A Memorandum?

A Here is a Memorandum dated August 29th from myself addressed to Mr. Dennis Yorath in which I compare two offers that we had received from two real estate firms, one of those firms being the firm you have mentioned, Mr. Aire, representing Sydie, Sutherland, etc., in which I use the words:

"The offer from Mr. Aire which is on behalf of Dr.

Allard ...,"

and this is dated August 29th, 1957, and he only offered \$300,000.00, which we would not accept.

Q This was not enough for you, I guess?

A No, it was not.

Q And then I wonder, it is prior, it is in your file there, this letter from Sydie Sutherland, May 16th 1958, indicating that Dr. Allard, they were going to approach Dr. Allard with respect to another, making another offer?

A This is '58, I gave you '57, didn't I?

Q That was '57, August '57, the last one, yes, August 29th '57 to be precise.

A I have a letter dated May 6th on the letterhead of Sydie Sutherland and Driscoll signed by a Mr. J. C. Aire.

THE COMMISSIONER: Of what year?

A May 16th, 1958, in which he says in the second paragraph, which I think is what you are referring to:

3-B-2

M. E. Stewart - Steer Ex.

"Immediately following that telephone conversation ..."
Referring to a conversation with Mr. Yorath or with
myself I guess,

" ... Dr. C. Allard was again approached to reinstate
his offer to purchase for which we are awaiting his
decision."

Q MR. STEER: Yes?

A "You will recall his original offer which he submitted
last year was rejected."

Q So that you didn't intend to convey in your evidence in
chief, sir, that Dr. Allard was not interested in this
building prior to March of 1959?

A No, I presume from what we were told by others that he
was of interest, I had no direct contact with him, nor has
anyone else that I am aware of.

Q What you meant was in March you didn't know who North West
Trust's clients were, or anyone else's clients as far as
the real estate people were concerned?

A That is correct.

Q Yes, and with regard to this question of knowledge of the
transfer of the property from, or the transfer from
Giannone interests, if I may call it that, to North West
Trust; I just wanted to show you a letter from the Shortreed
firm to the firm of Milner Steer Dyde etc., dated April 29th
1959, relating to that, and at least knowledge was obtained
at that time, I would suggest?

A What was your question?

3-B-3

M. E. Stewart - Steer Ex.

Q I say knowledge that the Giannone equity had been assigned to North West Trust would at least have been obtained at that time?

A Oh, no, we knew earlier than that.

Q Oh, you knew earlier than that?

A Oh, yes.

Q That this had been done?

A Because there is something else in the file about a certificate of vacant possession and a whole bunch of things, and we were aware almost immediately after May 6th that the transaction had taken place in turn from Mr. Giannone's people to North West Trust.

Q All I am trying to point out to you is that on April 29th 1959 you did know that this transaction between North West Trust and Giannone had taken place?

A That is correct.

Q Yes, that is all I have, sir.

THE COMMISSIONER: Mr. Maynard?

MR. MAYNARD: No questions.

THE COMMISSIONER: Have any of you gentlemen any questions arising out of these documents that were referred to Mr. Stewart? Thank you.

MR. CLEMENT: No questions, thank you very much.

THE COMMISSIONER: Thank you.

A Thank you.

(Witness steps down.)

MR. CLEMENT: Mr. Commissioner, you will recall

3-B-4

Discussion

MR. CLEMENT: (Cont.) that Mr. Gill wished Mr. Brower to be called.

Mr. Brower appeared this morning. I told him I would give him a sufficient notice rather than have him wait here. He went to lunch, sir. So I haven't any further evidence to bring before you this morning that is immediately available.

There are one or two matters, though, that I think we might conveniently deal with.

Mr. Wright a couple of days ago mentioned a transaction, and again involving Sherwood Park, Campbelltown as it then was, some dealing, some highway construction work in 1954 or 1955, and asked me to inquire as to one Charles Hind, who is a Comptroller for the Department of Public Works, I think, at that time.

MR. FRIEDMAN: Mr. Commissioner, the history of the two Departments, the Department of Highways and the Department of Public Works were one Department until 1951, and at that time they separated and Mr. Hind went to the Department of Public Works.

MR. CLEMENT: I am not entirely clear as to what this transaction was, but in connection with it the name of an Inspector Robinson was mentioned. Mr. Friedman tells me that Mr. Robinson retired some twenty-two years ago and it is not known whether he is alive or dead or where he is, in either case. Now, Mr. Friedman was good enough to say that if Mr. Wright would be a little more specific as to what he wished to inquire into they would try to find some record of it in the relevant Governmental

3-B-5

Discussion

MR. CLEMENT: (Cont.) files.

MR. WRIGHT: Yes, I will certainly discuss that with Mr. Friedman.

THE COMMISSIONER: Now, what about this application of Mr. Crawford's?

MR. CLEMENT: Well, there are a couple of other points, sir. Oh, yes, I think Mr. Friedman has in hand one or two matters which he agreed to produce, some information, namely the Ministers and Deputy Ministers throughout the relevant period, and I believe that he can, that that will come forward tomorrow.

THE COMMISSIONER: Yes.

MR. CLEMENT: And there is perhaps a small correction which might be, possibly should be made on the record in connection with the Mayfair Leasehold Limited grant of lease to the Crown. You will recall that Mr. Arnold said that this was done by Order-In-Council, and Mr. Friedman has examined the records. This was not done by Order-In-Council, that is to say the approval of the lease, the authority for the execution of it was done, as I understand it, in the normal way, by the Minister concerned, and that what actually did happen in this case was that an appropriation for the rent for this building had not been made in the estimates which came before the House in the sittings immediately preceding this, so that a special warrant had to be obtained to authorize the payment of the rent provided under the lease, and Mr.

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Discussion

Motion Re Experts

MR. CLEMENT: (Cont.) Friedman has the documentation. I don't know whether you would call it an Order-In-Council or what you call it, but anyhow the special warrant by which provision was made for the payment of the rent under this lease, and if counsel is interested in it he will produce it now.

MR. FRIEDMAN: If I can find it, Mr. Commissioner, I have many voluminous documents here and I will produce it after today's sittings for anyone who wants to see it.

MR. CLEMENT: I think that is about as far as I can take the Inquiry this morning, sir. As to Mr. Crawford's application, I have in the interval examined a few authorities bearing on the subject and if we are to argue it now I should perhaps, perhaps we could hear from Mr. Crawford, but I would require a few moments to get some books in, sir.

THE COMMISSIONER: Mr. Crawford, do you want to renew your application?

MR. CRAWFORD: Yes, My Lord, I am ready to proceed now.

THE COMMISSIONER: You may proceed.

MR. CRAWFORD: Mr. Commissioner, I have not brought any authorities, I am very pleased to know that Mr. Clement has. I don't know what they say but I am sure they will be of some assistance to you, sir.

My brief remarks on the subject will be these. Since the Commission opened, Mr. Commissioner, I have occasionally

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Motion Re Experts

MR. CRAWFORD: (Cont.) gone back to the Terms of Reference

and thoughtfully looked at them and tried to consider what direction the Inquiry was going and what I thought my position was, and, insofar as I could think in respect to others, what their position is or should be when reference is made directly to the Terms of Reference and the experience we have had these past number of weeks with the way the evidence has come in and the Hearing has gone; and the one thing that, or not the one thing, but one of the things that occurs time and time again is that the Legislature has twice in the Terms of Reference used the two words "public duty". It has used them in the sense of, in respect of Mr. Hooke in saying that the Inquiry is to learn whether or not he used for the personal gain of himself, his friends or his business associates his position as a member of the Executive Council in conflict with his public duty; and in respect of Mr. Hinman, similar reference, slightly narrower.

Now, Mr. Commissioner, I don't see how the Commission can make a final finding without some understanding in the present context of public affairs in this province and some understanding in the context of public affairs at all times material to the Inquiry, which I suggested to Your Lordship the other day goes back really some twenty-five years, of what public duty is, not what someone or other of us thinks it should be or might be, but what it was at the material times in fact so far as those facts can be

3-B-8

Motion Re Experts

MR. CRAWFORD: (Cont.) ascertained, and what it is now, or at the most recent material times as a matter of fact so far as those facts can be ascertained; and I submit to Your Lordship that there has not been a witness, and I don't foresee one in the present list, that can assist us in that one most important respect.

It is very common, as Mr. Clement pointed out the other day, for Courts to hear expert testimony. He used the example of medical evidence. I think perhaps the better one might be this, My Lord, in tax cases where a witness may be called to testify as to what a business practice or custom is in a particular time, or an accountant as to what an accounting practice is at a particular time; and I suggest that the similarity here is sufficient so that unless Your Lordship comes to the conclusion that it could not be of assistance, not that it likely wouldn't be, or possibly wouldn't be, but that it could not be of assistance, that then Your Lordship should grant the application to hear expert testimony.

I would like to suggest that a witness who could cover some of these things would be of great value to us, and the sort of thing I have in mind is this: I am not aware, as a matter of fact, whether or not in 1942 or 1951 or 1959 there was anything wrong with a Cabinet Minister carrying on a private business provided he also attended to his public duty, I don't know whether there is anything wrong with it today; I am satisfied that it has been established

3-B-9

Motion Re Experts

MR. CRAWFORD: (cont.) for a decade in the Federal field. I don't believe that in that field it has been established for any longer, and I submit in what is often referred to as the "inferior" level of the province that it is less clear than it is in the other Federal field.

Now, the only other thing I wanted to say on it is this, Mr. Commissioner, that I in passing the other day suggested that if an expert witness were called it should be someone from outside the province. I said that in order that it would be entirely clear to anyone hearing my application, including other counsel who represent more specific personal interests than I do, that the greatest objectivity is what I would urge we are seeking if we, with your direction, sir, have an expert witness called. Now, certainly I have no submission to make that the witness should not be from a competent area in the province, and so I make no limitation at all in my submission as to where this witness should come from, but I made reference to him being from outside the province only because there are people who are perfectly knowledgeable from outside, and then the suggestion could never be raised that there was any lack of objectivity.

And in concluding, My Lord, I thought that since previously I had declined to say the sort of witness I had in mind because I didn't wish the names of distinguished scholars to be published if they had not been contacted by the Commission, but I would say to Your Lordship that I

3-B-10

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MR. CRAWFORD: (Cont.) have given Mr. Clement a letter with two suggestions this morning, and I will give Your Lordship a copy of the letter now, and that will conclude my remarks.

(Document to the Commissioner.)

THE COMMISSIONER:

Thank you, Mr. Crawford.

MR. CLEMENT:

Mr. Commissioner, since this

matter was spoken to by Mr. Crawford I have had an opportunity of considering the law relating to this subject generally, particularly as it is viewed by the Courts, and I will in due course suggest that the evidence which has been adduced here be scrutinized in the same fashion as is done by any Court in order to determine the truth of the matter.

So, on that basis, I have examined such law as is available, and I do find some statements which I think are helpful to you, sir, in coming to a conclusion as to the proper course to be followed.

This subject matter has been the subject of judicial opinion for quite some time, a compendious statement may be found in Phipson on Evidence in the 10th Edition which is the 1963 Edition at page 478, and it is there stated this:

"The opinions of skilled witnesses are admissible whenever the subject is one upon which competency to form an opinion can only be acquired by a course of special study or experience. Experts give evidence and do not decide the issue. When the subject is one upon which the jury is as capable of forming an opinion as the witness, the reason for the admission

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MR. CLEMENT: (Cont.) of such evidence fails, and it will be rejected."

Sir, I haven't brought the books in for this, I am merely giving you the citations and the excerpts from them which I have noted down here, and if you wish the books to be brought forward I will have to ask for a short adjournment.

Now, Phipson further at page 487 has this to say:

" ... that neither experts nor ordinary witnesses may give their opinions upon matters of legal or moral obligation, or general human nature, or the manner in which other persons would probably act or be influenced."

And the same general view is stated, sir, in Halsbury, volume 15 at page 323.

Now, these statements refer back to some fairly early law. In Campbell and Rickards, which was decided in 1833, Chief Justice Denman stated that:

"Witnesses conversant in a particular trade may be allowed to speak to a prevailing practice in that trade; scientific persons may give their opinion on matters of science; but witnesses are not receivable to state their views on matters of legal or moral obligation, nor on the manner in which others would probably be influenced, if the parties had acted in one way rather than another."

In other words, sir, that observation of Chief Justice Denman in 1833, which is reported in 110 E.R. 1001, forms really the foundation of the text book observations since.

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MR. CLEMENT: (Cont.) That particular observation was in fact based on a reasoning in a decision in Durrell versus Bederly to this effect, and Durrell versus Bederly is an even older case, sir:

"It is not a question of science, in which scientific men will mostly think alike, but a question of opinion, liable to be governed by fancy, and in which the diversity might be endless. Such evidence leads to nothing satisfactory, and ought on that ground to be rejected."

Now, coming to more recent times and in our own Country, there is a case of Rex versus American News Company Limited, reported in 1957 Ontario Reports, page 145 in the Court of Appeal of Ontario; and that, sir, was a prosecution that a publication was obscene, and the defence sought to introduce as evidence an expert as to the literary quality and as to the question of whether the distribution of the book, in a question of law the admissibility of such expert evidence, and Mr. Justice Schroeder referred to the remarks of Mr. Justice Denman, and said that the evidence was inadmissible in these terms:

"One can envisage a procession of witnesses being called on one side to assert that the public good was served by the acts of the accused and on the other side to assert the contrary. This would lead only to a useless waste of time. If this evidence is inadmissible upon a question of fact, a fortiori it

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MR. CLEMENT: (Cont.) must be held to be inadmissible upon a question of law or upon a question which Parliament has clothed with that status. I would also observe that it has not been made to appear that the defence witnesses, however highly qualified they might be in their own particular field, possessed such special knowledge to answer the question bearing directly on the issue to be decided by the learned trial Judge, as to enable them to answer the question better than anyone else, and so such evidence should be rejected on the ordinary ground of worthlessness as in *Mohamed versus Yeoh*."

Now, the Court there, as I understand the decision, sir, took judicial notice, judicial notice, of contemporary, Canadian, community standards of decency, and relied on the sense of morality so perceived. This was, of course, followed in *Rex versus Cameron*, 58 D.L.R.

That view, sir, that *Rex and Cameron*, which held in the Court of Appeal in Ontario that contemporary, Canadian, community standards of decency, and so on, are a matter of which the Court takes judicial notice, that decision came up to the Supreme Court of Canada, and in the view of Mr. Justice Cartwright the appeal presented no question of law and so leave to appeal was not granted; in other words, the judgment of the Ontario Court of Appeal was in effect affirmed by the refusal to grant leave.

So then, sir, as I understand the authorities in which

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MR. CLEMENT: (Cont.) this question has been discussed, it is this, that questions of community morals, community standards and the like are not questions upon which any one person is deemed to be more expert than another. These are matters in which every person, the common man in the jury, is as able to form a standard of decency as any expert could possibly; and in the end result the question has been so treated that it is not a scientific investigation, not an Inquiry in which only a few trained people can have such knowledge and experience that they alone can advise the Court, and that this is a matter of common understanding which the Court alone is the only proper person to give the Judgment on it.

THE COMMISSIONER:

Mr. Wright?

MR. WRIGHT:

My Lord, with the greatest respect,

I don't draw that conclusion at all from the cases my learned friend cites. Those are all cases where an expert witness has given evidence or where the attempt was made for him to give evidence in which he will form a judgment on the facts that have been produced in that case. Now, my learned friend has set out the instances when this is allowed, but as I apprehend my learned friend Mr. Crawford's application, submission, it is not, it is not that the witness will come and with Your Lordship, so to speak, attempt to judge the case, but merely that the witness will come who has made a study of the abstract proposition of what the public duty of a Minister is; and he will be, he

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MR. WRIGHT: (Cont.) will be asked, I suppose, what his idea of it is and it will have no necessary bearing on the particular items of evidence that have gone in at all; so that he will not be an expert witness in the sense of those cases because he will not be asked to judge the matters before us.

However, on the main question of whether we should have one or not, it is at first a startling proposition that it should be necessary for a witness to give evidence of what the public duty of a Minister is, but upon examination perhaps it is not so startling, because as I understand it what the public duty of a Minister is is a matter of law and usage. As to the law, we are not accustomed to having that from witnesses, in fact in ordinary cases, unless it is a matter of fact as to what foreign law is, and we don't have it, but we, of course, are not bound by those rules here necessarily; but on the matter of usage, My Lord, it may be that Your Lordship could obtain assistance in the matter of the abstract consideration of the notion that would be of considerable value.

THE COMMISSIONER:

Mr. Gill?

MR. GILL:

Thank you, My Lord. I support the position of my learned friend Mr. Crawford.

My Lord, if this was a case dealing with someone being ill or sick there would be no question about calling a doctor as an expert witness. Here it may be that the body politic is not healthy, or it may be that you could use some degree of guidance as to standards of public conduct, of

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MR. GILL: (Cont.) public duty. Now, I have looked through the Dorion Commission and the Landerville Commission, and in each case they refer to other findings on the degree of morality of Ministers, of public duty of Ministers. Surely the same type of thing can come in through an expert witness.

Mr. Commissioner, this Commission may well set the standards of the public duty of a Minister of the Crown, of integrity in Government, for the next fifty years; and surely, sir, I think you are entitled to all the assistance and guidance that any expert or scholar in the field can give you. Thank you.

THE COMMISSIONER:

Mr. Cameron Steer?

MR. STEER:

May it please you, Mr. Commissioner,

I am not going to say a great deal, but first, and the only thing I will say is this, sir: with regard to the suggestion made by Mr. Gill that if this were a medical case we would have a medical witness; most certainly we would, but that witness would not say that this particular practice of this doctor who is a defendant is negligent or is not negligent. He would talk about what is good medical practice with respect to the facts of the case, and he may well say it is good medical practice, and the tribunal of fact, which would be Your Lordship, would say "This in the circumstances is negligent.". Now, the second thing, we cannot have evidence in a vacuum, the proposition that has been put to you that there is some abstract proposition with respect to public duty. This just simply cannot be. This is a

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MR. STEER: (Cont.) matter, all these witnesses would say is

"I would do this." or "I would not do that.". Your

Lordship is not assisted by that one iota.

THE COMMISSIONER:

Mr. Friedman?

MR. FRIEDMAN:

Mr. Commissioner, I adopt

the remarks of my learned friend, Mr. Clement. I oppose the appointment of a, the calling of a witness of this nature to give evidence which Mr. Crawford proposes would be in the nature of expert evidence. It is my submission that idealistic as Mr. Crawford's proposition is, that the witness in fact would end up by giving advice to you on what your decision should be in this case, and it is my submission that, that the conclusion is to be left to you as the Commissioner, and not to an expert witness.

THE COMMISSIONER:

Mr. Maynard?

MR. MAYNARD:

Mr. Commissioner, I don't think you ^{different} will be too surprised if I were to take a slightly/attack to the ones that have already been proposed, although the conclusion is just the same. I endorse the legal point of view advanced by my good friend Mr. Clement, Commission counsel, and also endorse the conclusions reached by Mr. Steer and Mr. Friedman, and you will recall that the other day Mr. McCuaig also objected to the application.

Now, Mr. Commissioner, there is another aspect of this question which has not been mentioned and I think is very interesting. It has been suggested that we should possibly call in University Professors to provide expert evidence in this particular field. Well, University Professors are well known to be, generally speaking, very good theoreticians, but when it comes to applying, to practical aspects of politics, the theories that some of them may hold, then we are in another sphere altogether; and I suggest that if any expert is to be called it should not be so much a University Professor as someone who has practical experience in the field of politics.

MR. GILL:

I have been trying to get you in the box for weeks, Mr. Maynard.

MR. MAYNARD:

It should be someone who as a result of his practical experience is in a position to possibly pass an opinion on these matters far better than a University Professor would be; but even then, that type of witness, a man with practical experience, whether it be myself or some-

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MR. MAYNARD: (cont.) one else, would simply be expressing an opinion. Now, we have opinions expressed by University Professors and others, fortunately, in numerous books that are available to counsel at anytime. It seems to me that what some counsel are trying to do around the table here is to slough off on to someone else the responsibility that is imposed on them by accepting the work of counsel before this Inquiry. When counsel appears before a Court it is well known that counsel is there to assist the Court, not only in bringing out the evidence but also in arguing what the law is so that the Judge may make a proper Judgment based on the evidence that is adduced. We are faced with the same responsibility here, Mr. Commissioner, not only to attempt to bring out the evidence on which a Judgment can be based, but also to argue what does in effect constitute the public duty of a Minister in whether it be today or ten years ago or twenty years ago.

I was rather intrigued by the suggestion that was made that possibly because times have changed there might possibly be a difference in the view of what the public duty of a Cabinet Minister is at the present time as to what it was in 1942. Well, it is fairly interesting to anyone who has studied legal constitutional history that the Constitution under which we are operating at the present time is a living organism, it is something that has been evolving not only throughout the years, but throughout the centuries, until today the foremost most important part of our Constitution

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MR. MAYNARD: (cont.) is the role of the Cabinet in the Constitution; but even that role of the Cabinet as it expanded, and it started expanding some a hundred and fifty or two hundred years ago, and even as recently as thirty or forty or fifty years ago it has been evolving still more, with the result that the decisions that have been made relating to Cabinet responsibility and the Ministerial responsibility some fifty or sixty years ago have had to be modified in the light of the modern day trend. Now, these are things that are open to any counsel who wishes to make a research into the matter and bring them forward before you. I would like to refer my good friends as a matter of convenience to two or three books in which they can find some of this information. One is Adams Constitutional History of England, written by a University Professor; the other one is a book called Patterns of Government, written by five University Professors from Harvard University, under the editorship of Samuel H. Beer and Alan B. Ulam: but in my opinion the classic of all is the book entitled Cabinet Government by Jennings and which contains a chapter dealing specifically with the responsibility of, with Ministerial responsibility, and it is very interesting to note that even in the few pages that deal with this subject matter the changes that have taken place in Great Britain on the question of the public duty of a Cabinet Minister as to whether a Cabinet Minister should take part in private enterprise, whether a Cabinet Minister should be a Director, whether a

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MR. MAYNARD: (cont.) Cabinet Minister should be a member of a private company, whether a Cabinet Minister who is a solicitor should be entitled to practice law, all these things have evolved and they are available for anyone to present to you in argument.

It is very interesting that in the small country of the Bahamas, which has the same Constitution as we have basically, it is a Member of the British Commonwealth of Nations and the Parliamentary system they have is based on the same setup we have here, up until the last election every Cabinet Minister in the Bahamas was occupied in private work, and there has been some criticism of it recently. There is a revolution taking place in the Bahamas as to whether this type of thing should continue.

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MR. MAYNARD: (cont.)

Mr. Commissioner, I suggest, I submit, that you have been requested to direct this Inquiry --

THE COMMISSIONER: I haven't been requested but I have been directed.

MR. MAYNARD: You have -- well, I was of the impression you had been requested to act and you consented to take it. I could be wrong.

THE COMMISSIONER: My Commission directs me.

MR. MAYNARD: Oh yes but I think Mr. Commissioner with all due respect, you have been asked to undertake this work because, not only of your competence as a Judge but because also of your knowledge of Parliamentary Procedure, Government, operation of Government, Ministerial responsibility and if the Government had wanted to get someone else to advise you as to what this responsibility would be, well then the Government might possibly have taken another course of action. I feel sir that you are well qualified, that with your past experience in the Parliamentary Procedure to determine what is, what is not the responsibility of a Cabinet Minister in line with his public duty, without having to call expert evidence, witnesses to advise the Commission in this respect.

THE COMMISSIONER: Are there any other counsel wish to make submissions on this Application?

MR. BOWEN: Well, I haven't spoken, sir --

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THE COMMISSIONER:

Oh Mr. Bowen, excuse me I passed you
by.

MR. BOWEN:

Coming at the end of my learned
friends --

THE COMMISSIONER:

I will give you last word to say.

MR. BOWEN:

I think that every word that can be
said has been said. I support Mr. Clement's position, Mr.
Steer's position and Mr. Friedman.

THE COMMISSIONER:

Thank you Mr. Bowen. Well gentlemen,
I am going to reserve on that matter, there is no immediate
urgency to it and in view of the hour we will adjourn until
nine o'clock tomorrow morning.

(The Hearing stood adjourned
at 1:05 P.M.)



